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December 10, 1998

Ms. Magalie R. Salas
Secretary
Federal Communications Commission
445 12th Street, S.W., TWA325
Washington, D.C. 20554

Re: RM Docket No. 98-201

Dear Ms. Salas:

Transmitted herewith, on behalf of Hearst-Argyle Television, Inc., are an original and eleven (11) copies of *Comments of Hearst-Argyle Television, Inc.* in the above referenced proceeding.

If any questions should arise during the course of your consideration of this matter, it is respectfully requested that you communicate with this office.

Very truly yours,

BROOKS, PIERCE, McLENDON,
HUMPHREY & LEONARD, L.L.P.


Mark J. Prak
Counsel to Hearst-Argyle Television, Inc.

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**Before the
Federal Communications Commission
Washington, D.C. 20554**

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FEDERAL COMMUNICATIONS COMMISSION
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In the Matter of)

Satellite Delivery of Network Signals to)
Unserved Households for Purposes of the)
Satellite Home Viewer Act)

CS Docket No. 98-201
RM No. 9335
RM No. 9345

Part 73 Definition and Measurement of)
Signals of Grade B Intensity)

To: The Commission

COMMENTS OF HEARST-ARGYLE TELEVISION, INC.

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December 11, 1998

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Summary

The Satellite Home Viewer Act (“SHVA” or “Act”) is a copyright statute, and the Commission lacks authority to modify it. Notwithstanding the Commission’s specialized knowledge concerning the construct of “Grade B intensity,” the Commission does not possess the expertise necessary to properly situate its specialized knowledge in the nexus of policy judgments that created a compulsory license in derogation of the normal exclusive rights protecting intellectual property.

Because the Act’s compulsory license is in derogation of the exclusive rights of copyright holders, Congress intended the scope of its narrow applicability to be limited only to a relatively small number of households located in “white areas.” But “white area” difficulties plague fewer than 0.5% of all television households, that is, fewer than 500,000 households, not the “millions” the satellite carriers fallaciously assert. The “white area” problem, as the Commission itself has stated, is “not substantial upon a nationwide basis.”

The principles of localism must frame the consideration of any proposals in this rulemaking. Despite the blatantly illegal conduct of the satellite carriers, the Commission simply has no authority to act on its own with respect to the SHVA, a copyright law. The Commission should not rush to “protect” those relatively affluent consumers who may lose satellite delivery of *duplicative distant* network signals at the expense of the one third of Americans who either cannot afford, or choose not, to subscribe to a pay-TV service. It is these latter Americans who will ultimately be harmed by the demise of free, local television service.

The Commission should take no action that would reduce the local service areas of broadcasters. The calculus is simple: Fewer viewers as a result of duplicative satellite programming

directly translate into a loss of advertising revenue, the only means of support for local broadcasters.

The Commission cannot change the definition of “signal of Grade B intensity” specifically for purposes of the SHVA. Nor should it. Just last year, in the DTV proceeding, the Commission reaffirmed its Grade B rules, which have served the television broadcasting service well for half a century. It is ludicrous to suggest that the Commission would have predicated DTV—for which broadcasters, collectively, are investing billions of dollars—on the existing definition of Grade B service if that service were not, in fact, adequate.

To the extent the Commission wishes to *advise* Congress on the matter, Hearst-Argyle endorses the Commission’s proposal to adopt the Longley-Rice propagation model as the best means to predict Grade B service at individual locations. For this purpose, the Commission should adopt Longley-Rice, version 1.2.2, in point-to-point mode with the time variability and confidence levels set at 50%/50%.

An analysis of increases to the Grade B intensity values or modifications to the Longley-Rice input parameters shows the serious, adverse effects such changes would have on local broadcasters. Over ten representative Hearst-Argyle stations, the average reduction in population predicted to be served by an increase in Grade B field strength intensity values to an amount equal to the current Grade A values amounts to *one quarter* (24.32%) of those currently predicted to be served. Were local broadcasters to lose, on average, a quarter of their viewership to duplicative distant network service, local advertising revenue would decline on approximately the same order. Many local broadcasters could not survive such a drastic reduction in revenue, especially given the fixed costs involved in running a local station.

Under EchoStar’s 99%/99%/99% proposal, Hearst-Argyle’s stations would experience an average decrease in the population predicted to be served of 60% and an average reduction in area

predicted to be served of 88%. Even a modest alteration in the inputs, to only 70%/90%/50%, results in a 13% average decrease in the population predicted to be served and an average reduction in area predicted to be served of 27%.

The Commission must examine the issue of how local affiliates will be able to invest enormous sums for DTV—and why they should do so—if they are to be faced with ever shrinking audiences, and thus shrinking revenues, due to satellite carriers cherry-picking the market's most affluent viewers with duplicative distant network programming. A failure to do so, and a failure to preserve the principles of localism, will jeopardize the economic vitality and viability of an industry that has served the American people for more than half a century—and which continues to serve one third of those people exclusively.

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Washington, D.C. 20554

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)	
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Signals of Grade B Intensity)	
To: The Commission		

COMMENTS OF HEARST-ARGYLE TELEVISION, INC.

I. Preliminary Statement

Hearst-Argyle Television, Inc. ("Hearst-Argyle"), by its attorneys, hereby files the following comments in response to the *Notice of Proposed Rule Making* ("Notice"), FCC 98-302, released November 17, 1998, in the above-captioned proceeding. The *Notice* seeks comment on a variety of issues related to whether a consumer is "unserved" by local broadcast network stations within the meaning of the Satellite Home Viewer Act ("SHVA" or "Act") and thus eligible to receive distant network stations by satellite.

Hearst-Argyle is a publicly-traded company that currently owns or manages 15 television stations and 2 radio stations in geographically diverse markets. The company's television stations reach approximately 11% of U.S. television households. The Company is in the process of acquiring the broadcast group of Pulitzer Publishing Company ("Pulitzer"). Pulitzer currently owns and operates 9 television stations and 5 radio stations. The Commission has approved the transfer, and

the transaction is expected to close shortly. In addition, Hearst-Argyle is also in the process of purchasing another television station, as well as a time brokerage agreement for another, from Kelly Broadcasting Company ("Kelly"). This transaction is expected to close in the first quarter of 1999. After completing both the Pulitzer and Kelly acquisitions, Hearst-Argyle will have 26 television stations covering significant portions of 20 states, in addition to 7 radio stations. The completed transactions will bring Hearst-Argyle's reach to more than 17.5% of U.S. television households, making Hearst-Argyle one of the nation's two largest non-network owners of local television stations.

In these Comments, Hearst-Argyle shows why the Commission lacks the authority to modify the SHVA, which is an amendment to the Copyright Act of 1976, and why the Commission cannot increase the 50-year-old Grade B intensity values, either directly, by expressly redefining the values, or indirectly, through a modification of Longley-Rice input parameters. To the limited extent the Commission can act, Hearst-Argyle shows that preservation of the principles of localism should frame the consideration of any proposals.

Hearst-Argyle is providing the Commission with signal area maps of representative stations showing the adverse effects on local broadcasters should there be any diminution of a broadcaster's local service area. The economic impact on local broadcasters from a reduction in viewership due to duplicative distant network programming is severe. Hearst-Argyle questions the fundamental fairness of reducing a local broadcaster's service area for purposes of altering a copyright regime, and thus reducing a local broadcaster's revenues, precisely at the time that local broadcasters are expected to invest millions of dollars each in the conversion to digital television.

One third of the American people rely *exclusively* on the mix of network programming and local news provided by their local network affiliates. Hearst-Argyle contends that *free* broadcast

service to this constituency should not be jeopardized just so satellite carriers can *sell* the same network programming, but without the critical local news and weather and political reporting, to paying subscribers—without having to compete in the marketplace, as the networks and affiliates do, for the legal rights to that programming.

II. The Commission Lacks the Authority to Modify the Act, but to the Extent the Commission Considers Proposals at All, Then It Should Act to Preserve the Principles of Localism in Broadcasting

1. The Satellite Home Viewer Act is a copyright statute. The Commission has not been granted authority to administer or enforce the copyright laws, including the SHVA. Absent express congressional authority, the Commission, not being the agency charged with administration of the nation's copyright laws, has no authority to interpret, enforce, preempt, or abrogate those laws, including the SHVA. The Commission itself has repeatedly conceded that it lacks the requisite authority to intercede in the realm of copyrights: “[W]e do not have jurisdiction with regard to matters of pure copyright”¹

The SHVA grants a limited compulsory copyright license to satellite carriers so that they may distribute distant network stations, which embody copyrighted programming material, to a narrow class of viewers. The SHVA compulsory license is an express limitation on the distribution rights of creators of original works of expression and thus is in derogation of the normally broad

¹ Inquiry into the Scrambling of Satellite Television Signals and Access to Those Signals by Owners of Home Satellite Dish Antennas, *Report*, FCC 87-62, 62 Rad. Reg. 2d (P & F) 687 (1987), at ¶ 209 n.252; *see also* Program Exclusivity in the Cable and Broadcast Industries, *Report and Order*, FCC 88-180, 64 Rad. Reg. 2d (P & F) 1818 (1988), at ¶ 130 (stating that the Copyright Act forecloses Commission rules “that fundamentally change the compulsory license scheme”); Restrictions on Use of Microwave Relay Facilities to Carry Television Signals to Community Antenna Television Systems, *First Report and Order*, FCC 65-335, 4 Rad. Reg. 2d (P & F) 1725 (1965), at ¶¶ 55 n.32, 159 (noting that copyright matters are beyond the Commission’s jurisdiction).

monopolistic power to control one's copyrighted works.² The compulsory license permits satellite carriers to retransmit copyrighted material without having to obtain the express permission of the owner. Nothing in the SHVA prevents satellite carriers from obtaining, in the marketplace, directly from the owners, copyright licenses to distribute the copyrighted material that they desire to retransmit.³ That is precisely what networks and affiliates must do for programming material they do not originate, since they do not have the benefit of a compulsory license scheme. Notwithstanding the Commission's specialized knowledge concerning certain matters that are referenced in the Act, notably the construct of "Grade B intensity," the Commission lacks the necessary expertise to properly situate that specialized knowledge in the nexus of policy judgments that created a compulsory license in derogation of the normal exclusive rights protecting intellectual property.

2. Because the Act's compulsory license is in derogation of the exclusive rights of copyright holders, there is really no question but that Congress intended the scope of its narrow

² See U.S. Copyright Office, *A Review of the Copyright Licensing Regimes Covering Retransmission of Broadcast Signals* (Aug. 1, 1997) (hereinafter "*Copyright Office Report*"), at 13 ("A compulsory license mechanism is in derogation of the rights of authors and copyright owners." (internal quotation marks and citation omitted)). See also *Fame Publishing Co. v. Alabama Custom Tape, Inc.*, 507 F.2d 667, 670 (5th Cir.) (stating that because a "compulsory license provision is a limited exception to the copyright holder's exclusive right to decide who shall make use of his [copyrighted work] . . . it must be construed narrowly, lest the exception destroy, rather than prove, the rule"), *cert. denied*, 423 U.S. 841 (1975).

³ See *Copyright Office Report* at 102 ("It is important to note, however, that the copyright law does not prohibit a satellite carrier from providing network service to a subscriber who does not reside in an unserved household. Rather, the satellite carrier simply cannot make use of the compulsory license in this circumstance, and must negotiate privately with the copyright owners of the programming appearing on the network signals being retransmitted. The Copyright Office is not aware, however, of any satellite carriers or copyright owners that have attempted to negotiate such rights.").

applicability to be limited only to a relatively small number of households located in “white areas” (which Congress recognized as being “typically rural,” beyond the reach of a local network station).⁴ More than ten years ago, in 1987, before the Act was even enacted, over-the-air network penetration was 98.1% of all television households. Even then, the magnitude of the network “white area” was very small—estimated by the Commission itself at fewer than half a million households—a problem the Commission termed “not substantial upon a nationwide basis” and for which “those genuinely affected have alternative programming sources available for entertainment and national news.”⁵ In 1988, there were 1028 commercial television stations on the air⁶; today, there are 1216.⁷ In addition, the number of television translators has also increased. Moreover, receivers and antennas have continued to improve. An acceptable quality picture can be picked up today at distances farther from transmitter sites than ever before. Based on these factors, the three largest networks are now likely to have over-the-air penetration of more than 99%. Over the past decade, the “white area” problem has steadily diminished from its then already-attenuated status. Hearst-Argyle contends that “white area” difficulties plague fewer than 0.5% of all television households, that is, fewer than 500,000

⁴ H.R. Rep. No. 100-887, pt. 2, at 19 (1988); *see also id.* at 15 (stating that the bill “resolves the legal issues surrounding provision of broadcast signals to rural America”); *id.* at 19 (“The bill confines the license to the so-called ‘white areas,’ that is, households not capable of receiving a particular network by conventional rooftop antennas”); H.R. Rep. No. 100-887, pt. 1, at 18 (1988) (same); *id.* at 15 (stating the intent to benefit “rural America”). *Cf. Copyright Office Report* at 125 (stating that the compulsory license scheme must be implemented to “confine it to predominantly rural areas of the country, which was the espoused purpose of the satellite compulsory license in 1988”).

⁵ *Inquiry into the Scrambling of Satellite Television Signals and Access to Those Signals by Owners of Home Satellite Dish Antennas, Report*, FCC 87-62, 62 Rad. Reg. 2d (P & F) 687 (1987), at ¶¶ 198 (first quote), 229 (second quote); *see also id.* at ¶¶ 170-71.

⁶ *See* 66 *Television and Cable Factbook* at I-45 (1998).

⁷ *See Broadcast Station Totals as of October 30, 1998* (released Nov. 18, 1998).

households, not the “millions” the satellite carriers fallaciously assert. Thus, as two federal court cases now make clear, the vast majority of the 4,000,000 satellite subscribers that pay for distant network programming are receiving that programming illegally.⁸

Hearst-Argyle understands the Commission’s desire “to protect satellite subscribers *who are truly unserved* from losing network service.”⁹ Yet the Commission must also keep in mind its own acknowledgment that most viewers who subscribe to distant network signals “do not live in ‘unserved households’ under *any* interpretation of that term.”¹⁰ The satellite industry has taken advantage of the good faith of broadcasters, consumers, Congress, and the Commission, perverting what was intended to be, and enacted as, a narrow compulsory license to illegal purposes.

3. The principles of localism must frame the consideration of any proposals in this rulemaking. Despite the blatantly illegal conduct of the satellite carriers, the Commission has no authority to act on its own with respect to the SHVA, a copyright law. However, where the Commission believes its expertise can be useful to Congress, the Commission can make recommendations to Congress. Thus, the Commission can recommend to Congress a predictive model for whether an individual household can receive a signal of Grade B intensity, a set of presumptions of service or lack thereof at such locations, and a method of measuring signal intensity at an individual household.

To the extent that the Commission can act, its actions must be consistent with the purposes

⁸ See *ABC, Inc. v. PrimeTime 24, Joint Venture*, 17 F. Supp. 2d 467 (M.D.N.C. 1998); *CBS, Inc. v. PrimeTime 24 Joint Venture*, 9 F. Supp. 2d 1333 (S.D. Fla. 1998).

⁹ *Notice* at ¶ 15 (emphasis added).

¹⁰ *Id.* (emphasis added).

of the Act. Congress was clear that it intended the Act to “respect[] the network/affiliate relationship and promote[] localism.”¹¹ In the Committee Reports, Congress stated repeatedly its desire to protect the network/affiliate distribution system¹² and to prevent disruption to the special exclusivity arrangements between networks and their affiliates.¹³ As the U.S. Copyright Office recently noted: “The legislative history of the 1988 Satellite Home Viewer Act is replete with Congressional endorsements of the network-affiliate relationship and the need for nonduplication protection.”¹⁴ The Act’s legislative history makes plain Congress’s appreciation of the historical and contemporary importance of the network/affiliate relationship and localism to the successful provision of a free, over-the-air television service to the American people.¹⁵ Modifying the Grade B rules to increase, even in the slightest, the composition of the narrow class of unserved households will undermine the economic viability of local broadcasting by altering the economics of local television service.

Satellite delivery of distant network signals (indeed, of any programming) is a luxury, not a necessity. The two recent *Turner* cases illustrate the importance of free, over-the-air local broadcasting to our national discourse and common culture, especially to those unable to afford subscription services.¹⁶ Hearst-Argyle is concerned lest the Commission rush to “protect” those relatively affluent consumers who may lose satellite delivery of *duplicative distant* network signals

¹¹ H.R. Rep. No. 100-887, pt. 1, at 14 (1988).

¹² See *id.* at 8; H.R. Rep. No. 100-887, pt. 2, at 19-20 (1988).

¹³ See H.R. Rep. No. 100-887, pt. 1, at 15 (1988); H.R. Rep. No. 100-887, pt. 2, at 20 (1988).

¹⁴ *Copyright Office Report* at 104.

¹⁵ H.R. Rep. No. 100-887, pt. 2, at 20, 26 (1988).

¹⁶ See *Turner Broadcasting Sys. v. FCC*, 512 U.S. 622 (1994) (“*Turner I*”); *Turner Broadcasting Sys. v. FCC*, 520 U.S. —, 137 L. Ed. 2d 369 (1997) (“*Turner II*”).

(as a result of a court injunction enforcing the copyright laws) at the expense of the one third of Americans who either cannot afford, or choose not, to subscribe to a pay-TV service—because it will be these latter Americans who will ultimately be disenfranchised of any television service by the demise of free, local television service.

Over the decades, the Commission has repeatedly emphasized the requirements of 47 U.S.C. § 307(b) to advance and preserve the nation's "local" broadcast service on the principle of localism.¹⁷ These prior analyses demonstrate that it is simply not desirable from a policy standpoint, as the Commission itself has acknowledged, "to undermine the basic network-affiliate relationship" to resolve "white area" issues concerning satellite duplication of network signals.¹⁸

4. To the extent the Commission does possess authority to act on matters presented in the *Notice*, its authority has been circumscribed by the congressional purpose and objectives of the SHVA, recent Supreme Court jurisprudence, and the Commission's own extensive analyses of similar issues in related contexts. The preservation of local broadcast service, the protection of the network/affiliate distribution system, and the protection of copyrights are the core principles that limit Commission action in this proceeding.

The Commission should take no action that would reduce the local service areas of

¹⁷ See, e.g., Restrictions on Use of Microwave Relay Facilities to Carry Television Signals to Community Antenna Television Systems, *First Report and Order*, FCC 65-335, 4 Rad. Reg. 2d (P & F) 1725 (1965); Inquiry into the Scrambling of Satellite Television Signals and Access to Those Signals by Owners of Home Satellite Dish Antennas, *Report*, FCC 87-62, 62 Rad. Reg. 2d (P & F) 687 (1987); Program Exclusivity in the Cable and Broadcast Industries, *Report and Order*, FCC 88-180, 64 Rad. Reg. 2d (P & F) 1818 (1988).

¹⁸ Program Exclusivity in the Cable and Broadcast Industries, *Report and Order*, FCC 88-180, 64 Rad. Reg. 2d (P & F) 1818 (1988), at ¶ 119.

broadcasters. The calculus of such action is simple: Fewer viewers as a result of duplicative satellite programming will directly translate into a loss of advertising revenue, the only means of support for local broadcasters. A decline in revenue, combined with the inability of a local broadcaster to reach viewers tuned to duplicative network programming, will ultimately compromise or jeopardize key aspects of the public interest obligations of local broadcasters, including the dissemination of local news and weather; the effective functioning of the Emergency Alert System; the communication of political debate and commentary on issues of local concern, as well as the political advertising for local and state-wide elections; and the broadcast of public service announcements for local charities, schools, and community service organizations, including local telethons, school closings, and food and blood drives.

It is important to remember that nothing in the SHVA, or the Commission's regulations, prevents satellite carriers from obtaining copyright licenses in the open market, just as the networks and affiliates do. The SHVA's compulsory license merely permits them, within very narrow limits, to avoid real-world competition in competing for and acquiring the rights for broadcast programming.

5. The Commission cannot change the definition of "signal of Grade B intensity" specifically for purposes of the SHVA. Hearst-Argyle is unaware of any circumstance in which the Commission (or any agency for that matter) has (1) tailored a rule for the specific purpose of a statute (2) which it is not charged to administer (3) without an express statutory grant. In the Act, Congress carefully crafted a delicate balance between, on the one hand, granting a narrow compulsory license in derogation of the exclusive rights of copyright holders and, on the other, promoting localism and protecting the network/affiliate relationship. The Commission simply does

not have the expertise or authority to alter or reweigh that balance. But were the Commission to “promulgate a special definition of Grade B intensity for the exclusive purposes of the SHVA,”¹⁹ that balance would necessarily be upset. In effect, it would be rewriting not just the definition but the statute itself. This, case law makes clear, the Commission cannot do.²⁰ As the court held in *Southwestern Bell Corp. v. FCC*, where “[a] balance was achieved after a careful compromise,”

[t]he Commission is not free to circumvent or ignore that balance. Nor may the Commission in effect rewrite th[e] statutory scheme on the basis of its own conception of the equities of a particular situation. . . . However reasonable the Commission’s assessment, we are not at liberty to release the agency from the tie that binds it to the text Congress enacted.²¹

In sum, the text that Congress enacted does not permit the Commission to, nor did it envision that the Commission would, “promulgate a special definition of Grade B intensity for the exclusive purposes of the SHVA.”

In fact, the Commission has recently considered the meaning of Grade B in the extensive DTV proceedings. There the Commission ultimately concluded that the existing NTSC Grade B service area should be the basis upon which DTV coverage should be predicated. The Commission’s goals were two-fold: first, to provide DTV coverage comparable to a station’s current coverage area and, second, to provide the best correspondence between the size and shape of the proposed DTV

¹⁹ Notice at ¶ 22 (asking whether the Commission possesses such authority).

²⁰ See *ASARCO, Inc. v. EPA*, 578 F.2d 319, 326-27 (D.C. Cir. 1978) (rejecting agency’s attempt to redefine a term when such a redefinition would essentially alter the basic purposes of the underlying statute); cf. *Indiana Michigan Power Co. v. Department of Energy*, 88 F.3d 1272, 1276 (D.C. Cir. 1996) (rejecting an agency interpretation that essentially rewrote the underlying statute and destroyed the “quid pro quo created by Congress”).

²¹ *Southwestern Bell Corp. v. FCC*, 43 F.3d 1515, 1520 (D.C. Cir. 1995) (internal quotation marks and citation omitted).

channel's coverage area and the station's existing coverage.²² The Commission carefully crafted this approach to "foster the transition to DTV, while simultaneously preserving viewers' access to off-the-air TV service and the ability of stations to reach the audiences *they now serve*."²³ Maintaining viewer "access to the stations that they can now receive over-the-air" was a critical component of the DTV replication scheme.²⁴ Thus, the value of over-the-air service to both viewers and broadcasters was fundamental to the Commission's actions. It is ludicrous to suggest that the Commission would have predicated DTV—for which broadcasters, collectively, are investing billions of dollars—on the existing definition of Grade B service if that service were not, in fact, adequate.

The DTV proceedings demonstrate that the Commission's Grade B rules have served the television broadcasting service well for nearly 50 years. This recent reaffirmation further confirms that the Commission should not, and cannot, rewrite a copyright statute by redefining the Grade B standards. It would be disruptive and highly inappropriate for the Commission to revise its Grade B definition where (1) the Commission has no express statutory authority to do so; (2) the Commission would contradict the service standards it has established for DTV; (3) the action would hinder the transition to DTV; (4) the revision would implicate other Commission rules; and (5) the revision would undermine the principles of localism upon which the nation's broadcasting service is based.

6. To the extent the Commission wishes to *advise* Congress on the matter,

²² See Advanced Television Systems and Their Impact Upon the Existing Television Broadcast Service, *Sixth Report and Order*, FCC 97-115, 7 Comm. Reg. (P & F) 994 (1997), at ¶ 12.

²³ *Id.* at ¶ 14 (emphasis added).

²⁴ *Id.* at ¶ 29.

Hearst-Argyle endorses the Commission's proposal to adopt the Longley-Rice propagation model as the best means to predict Grade B service at individual locations.²⁵ Both the broadcasting and satellite industries are familiar with Longley-Rice, and, as the Commission itself determined in its recent DTV proceedings, no better model has been developed.

Hearst-Argyle, however, does not believe that the Commission should adopt Longley-Rice "as implemented for DTV"²⁶ in all its particulars. In the DTV proceedings, the Commission was seeking to replicate NTSC Grade B service areas for purposes of defining DTV stations' noise-limited service areas. Thus the Commission defined the service area of an individual NTSC station, *for DTV purposes only*, as the area *within* the station's Grade B service contour, reduced by any interference.²⁷ The Commission was entirely concerned with predicting service *areas*, not signal strengths at individual locations. By contrast, in the instant proceeding, the Commission is concerned with predicting, as precisely as possible, which *individual* households receive a signal of Grade B intensity. The Commission should not, therefore, confine Longley-Rice only to areas within a local station's predicted Grade B service area. By its definition, the Grade B contour represents a median field strength. Obviously, a significant number of locations outside a station's predicted contour will be able to receive a signal of Grade B intensity. To accurately predict whether any given individual location can receive a signal of Grade B intensity, Longley-Rice must be applied without respect to a station's traditionally-predicted Grade B contour.

²⁵ See Notice at ¶ 34.

²⁶ *Id.*

²⁷ See Advanced Television Systems and Their Impact Upon the Existing Television Broadcast Service, *Sixth Report and Order*, FCC 97-115, 7 Comm. Reg. (P & F) 994 (1997), at ¶ 199 and Appendix B.

Again, since the concern is with predicting which individual households can receive a signal of Grade B intensity, Hearst-Argyle recommends that the Commission adopt Longley-Rice in point-to-point mode. In implementing this mode of Longley-Rice, it is imperative that the inputs for time variability and confidence level be set at 50%/50%.²⁸ For 50 years, the Commission has been concerned with the *median* field strength. Use of 50%/50% parameters in Longley-Rice generates median results. The current Grade B field strength values already incorporate a time fading factor to achieve the desired level of statistical reliability, viz. that the best 50% of locations at the contour receive an acceptable picture at least 90% of the time, as the Commission is well aware.²⁹ The Longley-Rice time variability input should only be changed to 90% if the time fading factor is subtracted from the median field strength values, i.e., if Longley-Rice were set to predict a field strength of 41 dBu for low VHF, 51 dBu for high VHF, and 60 dBu for UHF.

It is critical that the inputs be set at 50%/50%. Any other inputs are nothing but a backdoor means to effectively alter the Grade B signal intensity values and shrink the Grade B service areas. The satellite industry's proposed inputs of 100%/100%/100%, 99%/99%/99%, and 95%/95%/50% reflect a serious misunderstanding of the relationship between the Commission's Grade B signal intensity values and the Longley-Rice methodology. Each of their proposals would predict that acceptable service is only received within an area smaller than that circumscribed by a station's predicted Grade A contour, a self-contradictory result. If the Commission is to recommend a predictive model to Congress at all, then it should propose Longley-Rice, version 1.2.2, in point-to-

²⁸ Although in point-to-point mode it is *possible* to vary the location variability factor, there is absolutely no reason to do so since the field strength is being plotted to a specified, known location.

²⁹ See Notice at ¶ 32; *id.* at ¶ 4 n.16.

point mode with the time variability and confidence levels set at 50%/50%.

7. While there is no reason for it to do so, if the Commission elects to prescribe a measurement methodology solely for the purposes of determining signal strength at individual locations, then it should simply refine its current method, as specified in 47 C.F.R. § 73.686. The test antenna should be placed at 30 feet and oriented to receive the strongest signal.

III. An Increase in Grade B Field Strength Values Would Have an Adverse Effect on Local Television Service

The *Notice* appears to contemplate Commission action to increase the Grade B field strength values or to increase the location and time variability factors in the Longley-Rice model.³⁰ Hearst-Argyle vigorously opposes any such action. The Commission simply does not have the authority to modify the SHVA unilaterally by redefining the essential elements of its Grade B standard and thereby reduce the scope of the copyright protections afforded by the Act. Moreover, any such manipulation of the Grade B standard for that purpose would be anathema to the Commission's mandate to preserve localism in broadcasting.

Hearst-Argyle has had a series of signal area maps of ten of its stations prepared by TechWare, an independent engineering firm. Hearst-Argyle believes these stations are representative of heartland stations across the country. They operate in DMA markets of all sizes; three broadcast on low VHF frequencies, six on high VHF frequencies, and one on a UHF frequency.³¹ The

³⁰ See *Notice* at ¶¶ 27, 32.

³¹ Although Hearst-Argyle has not yet closed its Pulitzer and Kelly acquisitions, Hearst-Argyle has not discriminated among the various stations in randomly selecting for which of
(continued...)

characteristics of these representative stations are summarized in the table below:

Representative Hearst-Argyle Stations

<i>Station</i>	<i>Affiliation</i>	<i>DMA</i>	<i>DMA Rank</i>	<i>Frequency Range</i>
KCRA, Channel 3 Sacramento, CA	NBC	Sacramento-Stockton- Modesto	20	Low VHF
WLWT, Channel 5 Cincinnati, OH	NBC	Cincinnati	30	Low VHF
KMBC, Channel 9 Kansas City, MO	ABC	Kansas City	31	High VHF
KOCO, Channel 5 Oklahoma City, OK	ABC	Oklahoma City	44	Low VHF
WXII, Channel 12 Winston-Salem, NC	NBC	Greensboro-High Point- Winston-Salem	46	High VHF
KOAT, Channel 7 Albuquerque, NM	ABC	Albuquerque-Santa Fe	48	High VHF
KCCI, Channel 8 Des Moines, IA	CBS	Des Moines-Ames	69	High VHF
KETV, Channel 7 Omaha, NE	ABC	Omaha	74	High VHF
WAPT, Channel 16 Jackson, MS	ABC	Jackson	90	UHF
KSBW, Channel 8 Salinas, CA	NBC	Monterey-Salinas	121	High VHF

Three maps were prepared for each station. The maps are attached as an Appendix. All maps were produced using Longley-Rice, version 1.2.2, in point-to-point mode. The grid size was 1.0 km x 1.0 km. Translator stations were not taken into account; consequently, the data *understate*

³¹(...continued)

the 26 stations maps should be prepared. Thus, as it turns out, stations representative of Hearst-Argyle, Pulitzer, and Kelly are all included in this representative sample.

the extent of the stations' actual service, particularly for KOAT-TV, Albuquerque, New Mexico. The first map shows in light blue all locations predicted to receive a signal of at least Grade B intensity and in dark blue all locations predicted to receive a signal of at least Grade A intensity using the standard Longley-Rice inputs of 50%/50%/50%. The second map shows in light blue all locations predicted to receive a signal of at least Grade B intensity and in dark blue all locations predicted to receive a signal of at least Grade A intensity using the non-standard, EchoStar-proposed inputs of 99%/99%/99%. The third map shows in light blue all locations predicted to receive a signal of at least Grade B intensity and in dark blue all locations predicted to receive a signal of at least Grade A intensity using modified non-standard inputs of 70%/90%/50%. These third inputs were selected to show the results of less extreme modifications to the input factors. Accompanying each set of maps are data summaries detailing the population and area predicted to be served under each set of parameters, as well as the population and area located within the Commission's current predicted Grade B and Grade A contours.

An analysis of this data is provided in the accompanying chart. The results are startling.

Engineering Analysis of Representative Hearst-Argyle Television Stations

Station	FCC Grade B	Longley-Rice F(50,50,50) B	FCC Grade A	Longley-Rice F(50,50,50) A	Longley-Rice F(99,99,99) B	Longley-Rice F(70,90,50) B	A % Difference L-R F(50,50,50) B / L-R F(50,50,50) A	B % Difference L-R F(50,50,50) B / L-R F(99,99,99) B	C % Difference L-R F(50,50,50) A / L-R F(99,99,99) B	D % Difference L-R F(50,50,50) B / L-R F(70,90,50) B
KMBC										
Population	1977805	2036088	1642306	1737160	1308631	1834625	-14.68%	-35.73%	-24.67%	-9.89%
Area (sq. km)	31294	33821	14515	17887	3610	23779	-47.11%	-89.33%	-79.82%	-29.69%
WLWT										
Population	3138291	3348525	1798306	1989309	1421968	2754337	-40.59%	-57.53%	-28.52%	-17.74%
Area (sq. km)	33866	37696	9366	14452	4304	25258	-61.66%	-88.58%	-70.22%	-33.00%
KOCO										
Population	1317062	1394872	970735	1058729	793834	1271794	-24.10%	-43.09%	-25.02%	-8.82%
Area (sq. km)	40019	47220	11765	19812	5173	33866	-58.04%	-89.04%	-73.89%	-28.28%
WAPT										
Population	604870	720437	502344	604167	369747	609782	-16.14%	-48.68%	-38.80%	-15.36%
Area (sq. km)	22726	33572	13489	23060	5093	23539	-31.31%	-84.83%	-77.91%	-29.89%
KCCI										
Population	919319	951386	683140	787762	485341	840416	-17.20%	-48.99%	-38.39%	-11.66%
Area (sq. km)	44786	47212	22310	29227	6754	34720	-38.09%	-85.69%	-76.89%	-26.46%
WXII										
Population	2671680	2567799	1451324	1640552	427476	1942175	-36.11%	-83.35%	-73.94%	-24.36%
Area (sq. km)	45256	43656	22553	23892	5652	30855	-45.27%	-87.05%	-76.34%	-29.32%
KETV										
Population	1103173	1130296	759205	949252	619790	1024456	-16.02%	-45.17%	-34.71%	-9.36%
Area (sq. km)	34765	38698	16345	21646	4185	27462	-44.06%	-89.19%	-80.67%	-29.04%
KOAT										
Population	776746	764256	703780	716413	213323	741303	-6.26%	-72.09%	-70.22%	-3.00%
Area (sq. km)	44966	49040	21117	34890	994	38627	-28.85%	-97.97%	-97.15%	-21.23%
KSBW										
Population	6438505	5239116	3091188	4379494	626817	4745215	-16.41%	-88.04%	-85.69%	-9.43%
Area (sq. km)	43962	51383	21395	26869	1933	37434	-47.71%	-96.24%	-92.81%	-27.15%
KCRA										
Population	8625838	6888837	2908942	3049698	2132182	5492247	-55.73%	-69.05%	-30.09%	-20.27%
Area (sq. km)	51196	57170	16465	29695	13534	46729	-48.06%	-76.33%	-54.42%	-18.26%
Average Change										
Population							-24.32%	-59.17%	-45.00%	-12.99%
Area							-45.02%	-88.43%	-78.01%	-27.23%

The column labeled A in the chart shows the percentage difference in size between the larger population predicted to receive a signal of at least Grade B intensity and the smaller population predicted to receive a signal of at least Grade A intensity, both calculated using the standard Longley-Rice inputs of 50%/50%/50%. This comparison is significant because the *Notice* acknowledges the fundamental constraint that, were the Commission to manipulate the Grade B intensity values, it “cannot modify Grade B intensity so much that it effectively equals or exceeds Grade A signal intensity.”³² This comparison thus demonstrates the potential effect on local viewership were the Commission to increase the current, traditional Grade B intensity values to equal the current, traditional Grade A intensity values. Hearst-Argyle reiterates that the Commission lacks the authority to modify the Grade B intensity values for purposes of the SHVA at all, let alone to increase them to the Grade A levels. This example is purely for illustrative purposes.

The potential decrease in viewership for these ten Hearst-Argyle stations ranges from more than 6% for KOAT-TV, Albuquerque, New Mexico, to nearly 56% for KCRA-TV, Sacramento, California, representing a potential loss of more than 3.8 million viewers for KCRA. The relatively small decrease for KOAT is entirely dependent on the fact that KOAT’s Grade A signal extends so far, encompassing a far larger percentage of its viewership area than is typical for most stations. In any event, the loss is still nearly 50,000 viewers. But for KCRA, *considered alone*, the potential in lost households (more than one million) is more than the total number of unserved households in network “white areas” in the entire nation. Over these ten Hearst-Argyle stations, the average reduction in population predicted to be served by a change in field strength intensity on this order is nearly *one quarter* (24.32%) of those currently predicted to be served. Were local broadcasters

³² *Id.* at ¶ 32.

to lose, on average, a quarter of their viewership to duplicating distant network service, local advertising revenue would decline on approximately the same order. Many local broadcasters could not survive such a drastic reduction in revenue, especially given the fixed costs involved in running a local station. It should go without saying that the Commission ought not gut the principles of localism in this manner.

The results provided in columns **B** and **C** show the absurdity of EchoStar's 99%/99%/99% proposal.³³ Column B shows the percentage reduction in population predicted to be served by a signal of at least Grade B intensity when the Longley-Rice inputs are increased from their standard 50%/50%/50% to EchoStar's proposed 99%/99%/99%. This increase in input parameters shrinks the predicted service areas and populations *dramatically*. The decrease in service areas for these ten Hearst-Argyle stations averages more than 88%, ranging from more than 76% for KCRA to nearly 98% for KOAT. The decrease in served populations averages approximately 60%, ranging from nearly 36% for KMBC-TV, Kansas City, Missouri, a potential loss of more than 725,000 viewers, to more than 88% for KSBW-TV, Salinas, California, a potential loss of more than 4.6 million viewers.

The true absurdity of the EchoStar proposal is shown in column C, however. That column shows the percentage difference between that population predicted to receive a signal of at least *Grade A* intensity under the standard input parameters and the population predicted to receive a signal of only Grade B intensity under EchoStar's proposed parameters. On average, the population predicted to receive the weaker Grade B signal under EchoStar's proposal is 45% *smaller* than the

³³ As extreme as this proposal is, the proposed inputs of 100%/100%/100%, advanced by the National Rural Telecommunications Cooperative ("NRTC"), are even more extreme. The following analysis is thus even more strongly applicable to NRTC's proposal.

population likely to receive the stronger Grade A signal with normal parameters. In other words, EchoStar's proposed inputs would shrink the defined service population to an amount significantly smaller than the population predicted to receive a Grade A signal. Yet, as noted above, the Commission has acknowledged that Grade B service cannot be smaller than current Grade A service.³⁴ In addition, column C also shows that the EchoStar proposal would shrink the predicted Grade B service area to an area, on average, 78% smaller than the area predicted to receive a signal of at least Grade A intensity. In most cases, a station's Grade B service area would not even extend as far as the station's current city grade contour, as required by 47 C.F.R. § 73.685. Of course, this is a logical paradox only, not a physical one. No matter how unrealistic the input parameters the satellite carriers may wish the Commission to require or recommend,³⁵ those statistical inputs will not alter the physical fact that local stations will, in reality, be providing the requisite minimum field strength over their principal communities. These households are served by their local affiliates and are ineligible for distant network service pursuant to the SHVA's compulsory license scheme. Overall, this example demonstrates that any modifications to the Longley-Rice input parameters are, in effect, just an indirect means by which to alter the actual intensity values. Neither should be done.

Finally, the results provided in column D show the adverse effects of even moderate changes in the Longley-Rice input parameters. This column shows the percentage difference between populations and areas predicted to receive a signal of current, traditional Grade B field strength

³⁴ See Notice at ¶ 32.

³⁵ Not only are these parameters wholly unrealistic, they present statistical problems of their own. The statistical function underlying Longley-Rice relies on a log normal distribution. However, insufficient data exist for input parameters greater than 90%. Accordingly, the log normal distribution begins to break down with inputs greater than 90%, and the results obtained are not reliable despite the so-called confidence factor.

calculated according to the standard parameters of 50%/50%/50%, which are designed to reflect the median, and modified, non-standard parameters of 70%/90%/50%. These latter inputs are far less extreme than those proposed by the satellite industry. Although these inputs were never advanced by the satellite industry, they were selected, again, for illustrative purposes only. In fact, the 70% location variability factor and the 90% time variability factor were chosen precisely because they seem to call to mind the statistical meaning of the traditional Grade A intensity values. The Commission's Grade A values were originally developed so that 70% of the receiving locations at the perimeter would receive an acceptable quality picture at least 90% of the time.³⁶ *This similarity, however, is deceptive.* The field strength being plotted with Longley-Rice inputs of 70%/90%/50% is still the *Grade B* intensity value; it is **not** the Grade A field strength that is being measured. Unlike the Grade B field strength values, the Grade A values have a terrain factor of 4 dB built in to improve the location probability, assume no (zero) receiving antenna gain (vis-à-vis a gain of 6 dB for VHF and 13 dB for UHF for Grade B), and contain substantial margins to overcome external environmental noise (14 dB for low VHF and 7 dB for high VHF).³⁷ Therefore, essentially by definition, one should expect that a Longley-Rice 70%/90%/50% plot of Grade B values will be, in most cases, more geographically expansive than a Longley-Rice 50%/50%/50% plot of Grade A values. This, in fact, is what the data confirm.

This discussion further illustrates, that, because of the different planning factors involved in

³⁶ See Notice at ¶ 28.

³⁷ See Television Broadcast Service, *Third Notice of Further Proposed Rule Making*, FCC 51-244, 16 Fed. Reg. 3072, 3080 (Appendix B) (Apr. 7, 1951); Robert A. O'Connor, *Understanding Television's Grade A and Grade B Service Contours*, IEEE Transactions 137, 142 (Dec. 1968); Gary S. Kalagian, *A Review of the Technical Planning Factors for VHF Television Service*, FCC/OCE Bulletin RS 77-01 (Office of Chief Engineer Mar. 1, 1977), at 4. External environmental noise is not a factor for UHF.

the two grades of service, one cannot assume that, merely by changing the input parameters in Longley-Rice, one can reproduce any given field strength value and its distribution over a given area. There is a relationship between the two, but it is not direct. For any given Longley-Rice inputs of x % location variability and y % time variability plotting traditional Grade B field strength values, there is a corresponding *different* median field strength, z dBu, that can be plotted by Longley-Rice with inputs of 50%/50%/50% so that the *total* areas encompassed by the two plots are equal. In other words, changing the Longley-Rice variability parameters, but plotting the traditional Grade B intensity value, is equivalent, albeit indirectly, to modifying the Grade B intensity value itself and plotting those locations where that median field strength is predicted to exist.³⁸

The results in column D, then, show that even very moderate alterations to the Longley-Rice variability inputs will result in significant losses of viewership. Over the ten Hearst-Argyle stations, there is a 13% average decrease in the population to be served and an average reduction in area predicted to be served of more than 27%. In the case of WXII-TV, Winston-Salem, North Carolina, there is a loss of service population of more than 24%, which amounts to a loss of more than 625,000 potential viewers, and a loss of service area of more than 29%. In the case of KCRA, there is a loss of service population of more than 20%, amounting to a loss of nearly 1.4 million potential viewers, and a loss of service area of more than 18%. These two examples show that where population is widely dispersed, as opposed to more concentrated, the potential loss in predicted served population will be greatest, even under a moderate alteration in the Longley-Rice inputs.

Despite the significant difference in the field strength values being measured, as discussed

³⁸ If either x or y is greater than 50%, then z will necessarily be greater than the Commission's traditional Grade B intensity values, i.e., greater than 47 dBu for low VHF, 56 dBu for high VHF, and 64 dBu for UHF.

above, in many cases a Longley-Rice 70%/90%/50% plot of Grade B field strengths is only moderately larger than a Longley-Rice 50%/50%/50% plot of Grade A field strengths. For example, in the case of WAPT-TV, Jackson, Mississippi, the predicted Grade B service area is only 2% bigger than the predicted Grade A service area and only 0.93% more people are predicted to be served.

In sum, these data confirm Hearst-Argyle's contention that increases in the Grade B field strength values or in the Longley-Rice input parameters will significantly reduce the copyright protection afforded by the SHVA and erode the viewership base of local network affiliate stations.

But the economic harm to local stations and thus the danger to localism itself may be even more significant. For example, currently KMBC-TV, Kansas City, Missouri, is in the process of purchasing state-of-the-art Doppler radar and other weather-related equipment. It is critical to KMBC's local mission to be able to report as accurately as possible on the fast-appearing and fast-moving tornados that frequent the Kansas/Missouri region, for human lives are at stake. KMBC is making a capital investment of more than \$900,000 to upgrade its weather-reporting facilities alone. It is difficult to see how stations such as KMBC could fund such capital-intensive endeavors if they were to lose only a fraction of the local advertising revenue that is potentially at stake due to duplicative network programming delivered via satellite. As viewers are siphoned off to satellite service, the harm to localism is doubly insidious, for not only will stations be less able to fund capital-intensive upgrades for local services such as emergency weather reporting, but viewers themselves will not be watching their local stations and thus may fail to see potentially life-saving local reports. Effective functioning of the Emergency Alert System would clearly be frustrated.

Moreover, weather-reporting is just one example of the many types of local service affiliates provide and of the obligations to which broadcasters are committed. In addition to weather equipment, local stations must make substantial investments to provide first-rate local news and

public affairs programming. Many stations also own and maintain helicopters for traffic and emergency reporting. Perhaps most significantly, broadcasters are in the midst of transitioning to DTV. DTV upgrades, including new antennas and possibly new towers, as well as a host of other necessary equipment, will likely cost the average station millions of dollars. Hearst-Argyle has conservatively estimated that DTV conversion will cost the company at least \$60 million. The Commission must examine the issue of how local affiliates will be able to invest such enormous sums—and why they should do so—if they are to be faced with ever shrinking audiences, and thus shrinking revenues, due to satellite carriers cherry-picking the market's most affluent viewers with duplicative distant network programming.

Were the Commission to shrink local affiliates' service areas, by any means—directly, by increasing the Grade B intensity values, or indirectly, by modifying the location, time, and confidence variability factors in the Longley-Rice model—the adverse economic effects on broadcasters are manifest. It would undermine the ability of local stations to serve as an outlet for community self-expression and as a source of vital information of local concern. The Commission is required by Section 307(b) of the Communications Act to advance the principles of localism. A failure to do so will jeopardize the economic vitality and viability of an industry that has served the American people for more than half a century—and which continues to serve one third of those people exclusively.

Conclusion

Based on the foregoing, Hearst-Argyle respectfully submits:

- ▶ The primacy of localism and the network/affiliate relationship, both as a predicate for the Satellite Home Viewer Act and as a guiding regulatory principle for the Commission, is indisputable.
- ▶ The Commission's lack of authority to administer or enforce the copyright laws is indisputable.
- ▶ The Commission's further lack of expertise to even consider, let alone alter, congressional policy judgments that created a compulsory license in derogation of the normal exclusive rights protecting intellectual property, is indisputable.
- ▶ The economic harm to network affiliates resulting from any shrinkage in local service areas is indisputable.

Hearst-Argyle fully understands the Commission's desire "to protect satellite subscribers *who are truly unserved* from losing network service." But, as demonstrated above, and as previously acknowledged by the Commission itself, the numbers of those *truly unserved* by local broadcast network service are but a fraction of one percent of all television households in the country—fewer than 500,000 households. Through the Commission's own careful planning and administration and through the success of the broadcasting service, the country's network "white area" is relatively small upon a nationwide basis. This is the principal reason why Congress was willing to grant satellite carriers a special, narrowly-drawn compulsory copyright license in the first place. Yet, rather than respect the limits of the special privilege afforded by the compulsory license, and rather than compete on equal terms in the programming supply market for the rights not granted them by the Act, the satellite carriers have chosen instead to build their industry, in part, on the theft of the intellectual property of others. Now they expect the Commission to legitimize their ill-gotten gains.

Therefore, in light of the foregoing, Hearst-Argyle respectfully asks the Commission not to sacrifice the principles of localism—and its own principles—on the altar of an illusory expediency.

Respectfully submitted,

HEARST-ARGYLE TELEVISION, INC.

By Wade H. Hargrove
Wade H. Hargrove

By Mark J. Prak
Mark J. Prak

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December 11, 1998

Declaration of William R. Meintel

I, William R. Meintel, hereby declare as follows:

1. I am William R. Meintel, President of TechWare, Inc.
2. I hold a BS degree in electrical engineering and have over 29 years experience in the communications field. I completed a 20-year career with the Federal Communications Commission (FCC) where I held a number of engineering positions. In addition to serving as a field engineer for the FCC, I spent the last 10-years of my FCC career in the Mass Media Bureau's Policy and Rules Division. While there, I served as the Division computer expert in addition to my engineering responsibilities that included extensive involvement in a number of complex domestic and international spectrum planning matters.
3. Since entering private practice in 1989, I have been heavily involved in spectrum planning for the broadcast industry. During that period I co-authored a report for the NAB on spectrum requirements for Digital Audio Broadcasting (DAB), created a plan for independent television broadcasting for Romania and have been extensively involved in spectrum planning for digital television (DTV). My involvement in DTV has included the development of the sophisticated computer models used by both the broadcast industry and the FCC for DTV planning as well as serving as a technical consultant to the broadcast industry. In addition to providing technical consulting services to a number of individual domestic clients, I also have been contracted by the Brazilian Association of Broadcasters to provide DTV planning software and technical consulting services to assist Brazilian DTV spectrum planning. I have also authored a number of papers and articles and made numerous presentations on subjects related to spectrum planning.
4. I prepared the accompanying signal area maps and data summaries at the request of Hearst-Argyle Television, Inc. for use by Hearst-Argyle in response to the Notice of Proposed Rule Making, FCC 98-302, released November 17, 1998, in the matter of Satellite Delivery of Network Signals to Unserved Households for Purposes of the Satellite Home Viewer Act.
5. These maps and their accompanying service population and area statistics are true and correct to the best of my information, knowledge, and belief.

This the 3rd day of December, 1998.


William R. Meintel

KMBC Channel 9 Kansas City, Missouri

SERVICE	FCC Grade B		FCC Grade A	
	Population	Area (Square km)	Population	Area (Square km)
Traditionally Predicted	1,977,805	31,294	1,642,306	14,515
	F(50/50/50) (Grade B)		F(50/50/50) (Grade A)	
	Population	Area (Square km)	Population	Area (Square km)
Longley-Rice Predicted	2,036,088	33,821	1,737,160	17,887
	F(99/99/99) (Grade B)		F(99/99/99) (Grade A)	
	Population	Area (Square km)	Population	Area (Square km)
Longley-Rice Predicted	1,308,631	3,610	217,880	196
	F(70/90/50) (Grade B)			
	Population	Area (Square km)		
Longley-Rice Predicted	1,834,625	23,779		

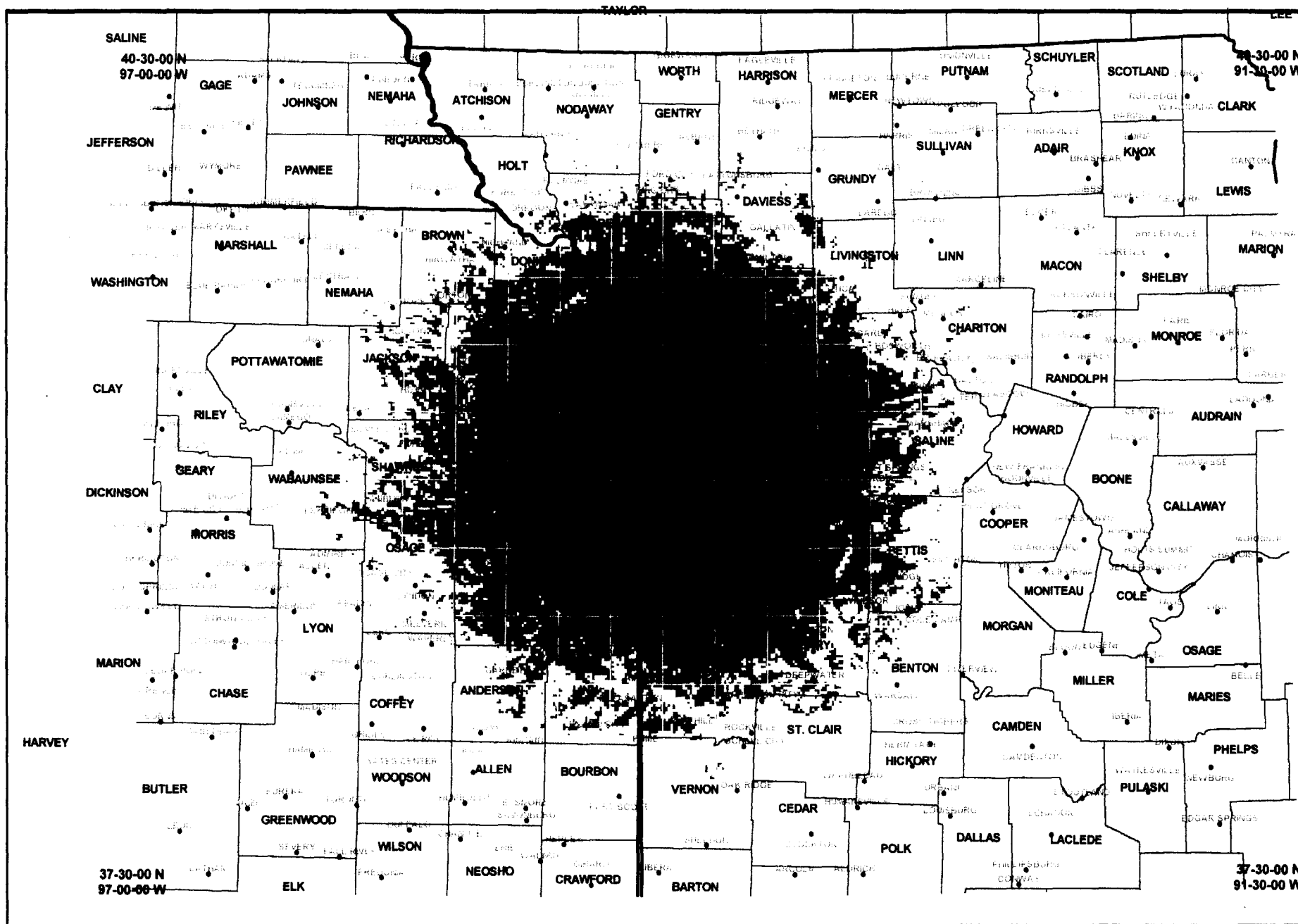
F(50/50/50) - Longley-Rice Location Variability (50%), Time Variability(50%), Confidence (50%)

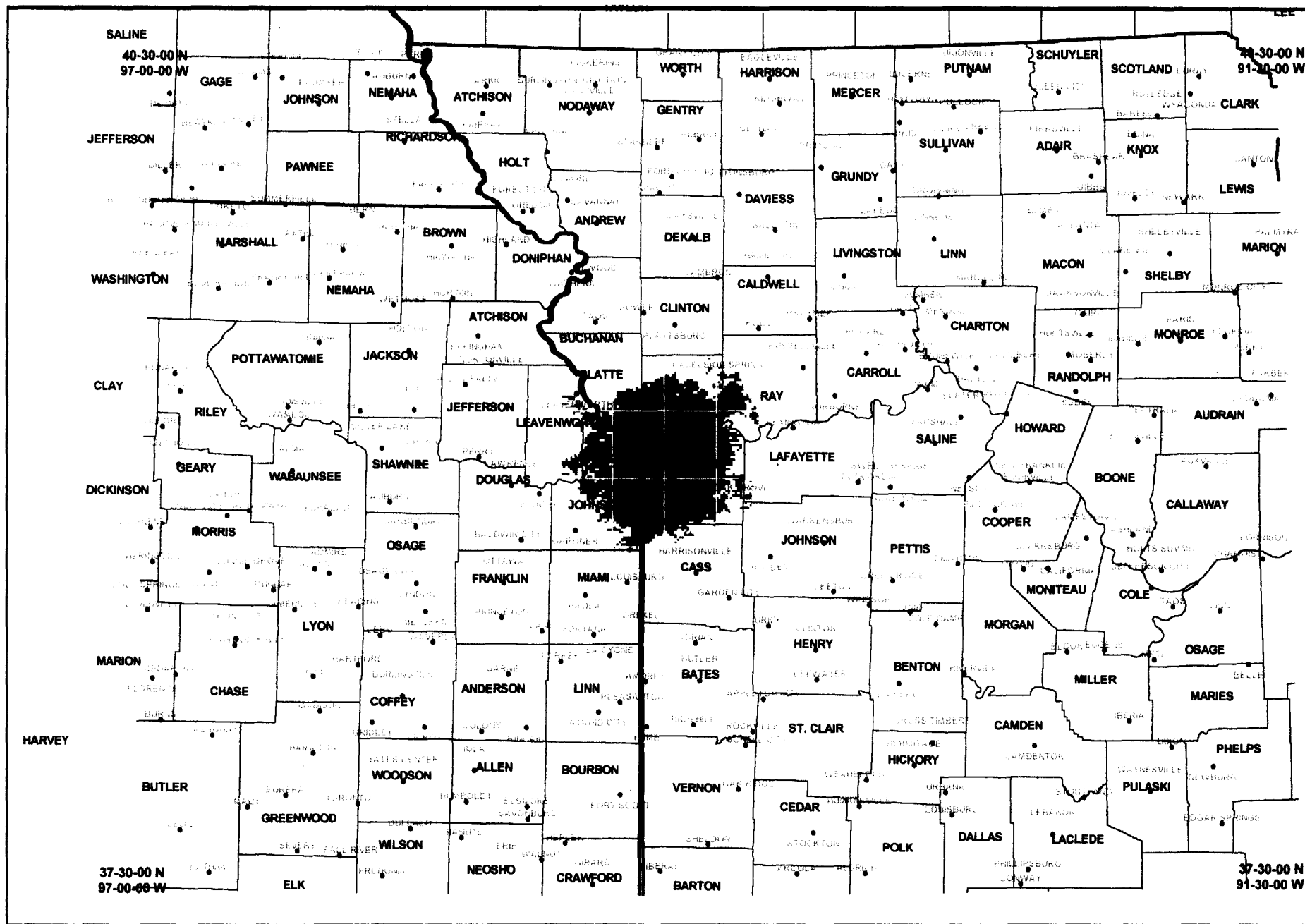
F(99/99/99) - Longley-Rice Location Variability (99%), Time Variability(99%), Confidence (99%)

F(70/90/50) - Longley-Rice Location Variability (70%), Time Variability(90%), Confidence (50%)

Prepared for: Hearst-Argyle December 3, 1998

**Prepared by: TechWare, Inc.
Suite 206
14101 Parke Long Court
Chantilly, VA 20151
703-222-5842**





KMBC KANSAS CITY MO NTSC Channel 9

Grade B = Light Blue Grade A = Dark Blue

Longley-Rice Analysis

L = 99%, T = 99%, C = 99%

Prepared for Hearst-Argyle

Prepared by TechWare, Inc. Chantilly, VA 703-222-5842

0 KM 100

WLWT Channel 5 Cincinnati, Ohio

SERVICE	FCC Grade B		FCC Grade A	
	Population	Area (Square km)	Population	Area (Square km)
Traditionally Predicted	3,138,291	33,866	1,798,306	9,366
	F(50/50/50) (Grade B)		F(50/50/50) (Grade A)	
	Population	Area (Square km)	Population	Area (Square km)
Longley-Rice Predicted	3,348,525	37,696	1,989,309	14,452
	F(99/99/99) (Grade B)		F(99/99/99) (Grade A)	
	Population	Area (Square km)	Population	Area (Square km)
Longley-Rice Predicted	1,421,968	4,304	503,985	290
	F(70/90/50) (Grade B)			
	Population	Area (Square km)		
Longley-Rice Predicted	2,754,337	25,258		

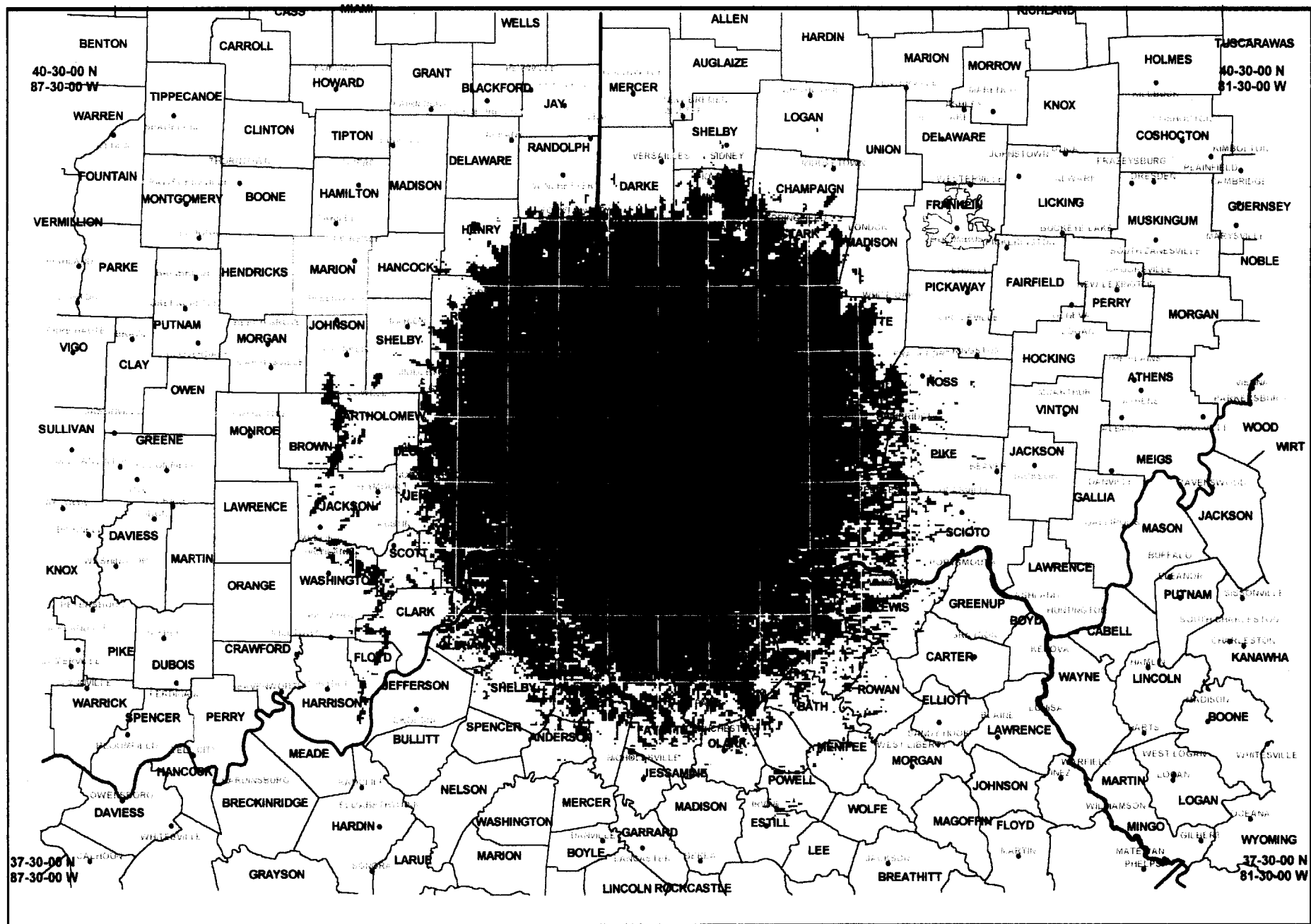
F(50/50/50) - Longley-Rice Location Variability (50%), Time Variability(50%), Confidence (50%)

F(99/99/99) - Longley-Rice Location Variability (99%), Time Variability(99%), Confidence (99%)

F(70/90/50) - Longley-Rice Location Variability (70%), Time Variability(90%), Confidence (50%)

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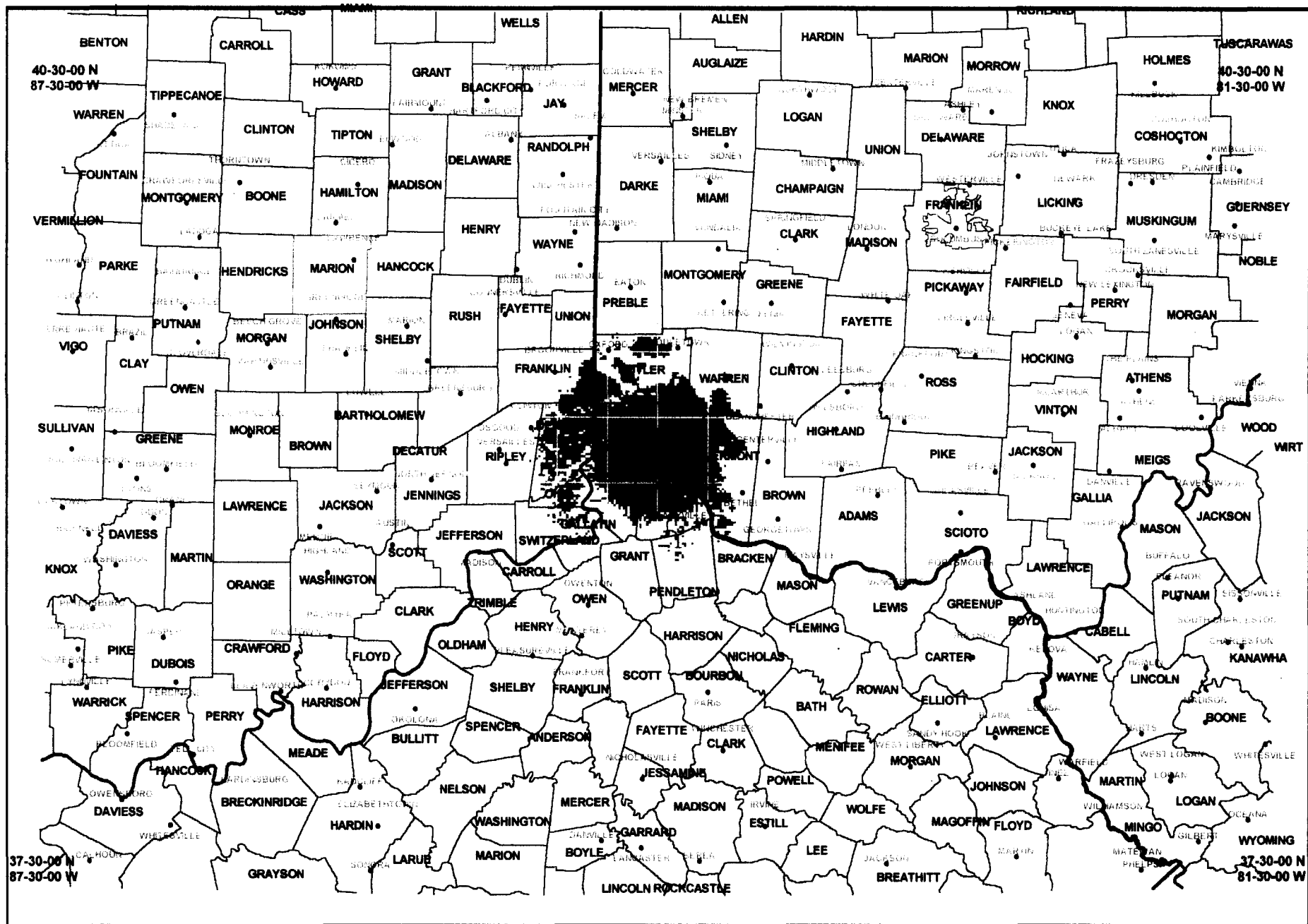
WLWT CINCINNATI OH NTSC Channel 5
 Grade B = Light Blue Grade A = Dark Blue

Longley-Rice Analysis

L = 50%, T = 50%, C = 50%

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WLWT CINCINNATI OH NTSC Channel 5
 Grade B = Light Blue Grade A = Dark Blue

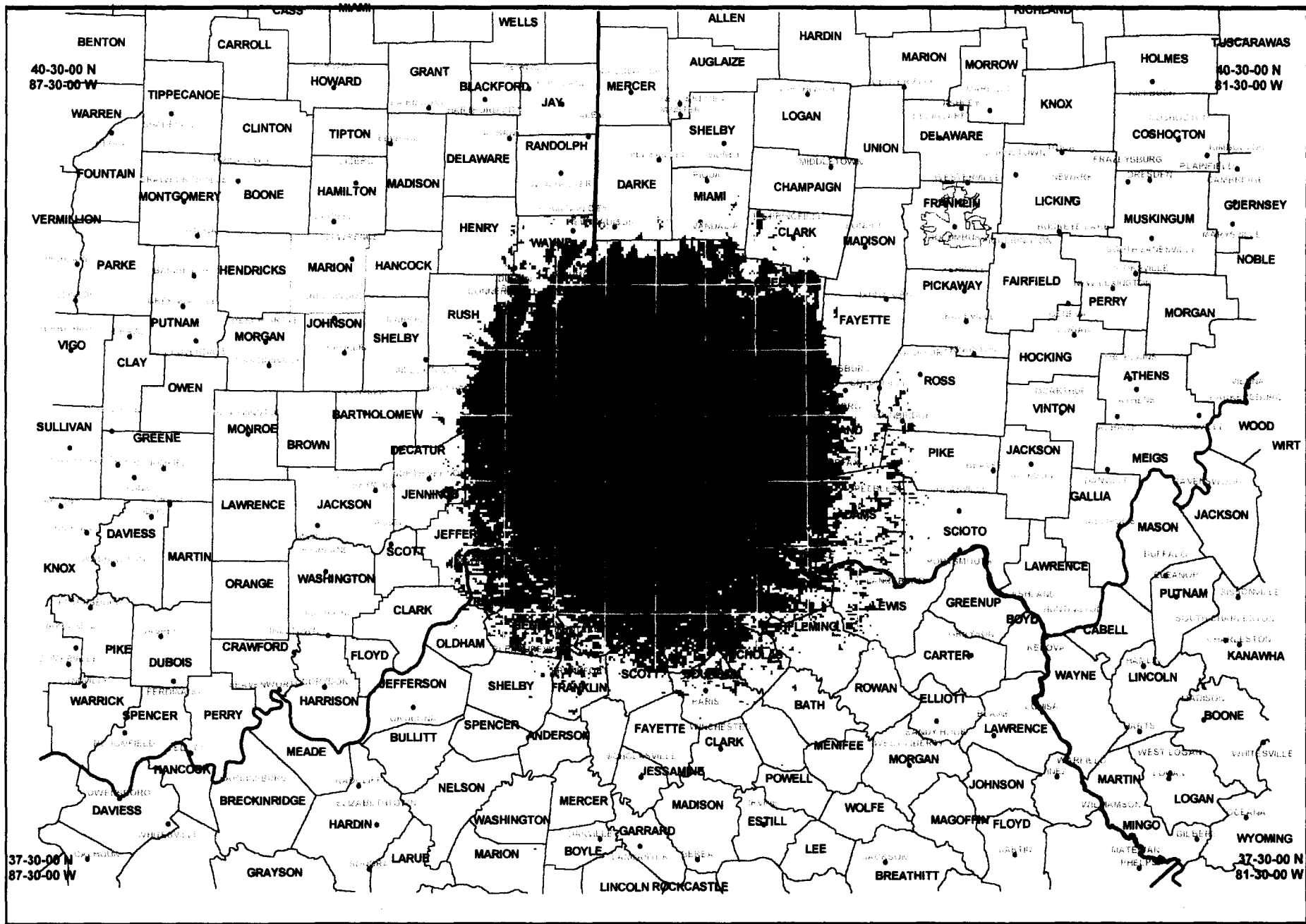
Longley-Rice Analysis

L = 99%, T = 99%, C = 99%

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0 KM 100



WLWT CINCINNATI OH NTSC Channel 5
 Grade B = Light Blue Grade A = Dark Blue
 Longley-Rice Analysis

L = 70%, T = 90%, C = 50%

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0 KM 100

KOCO Channel 5 Oklahoma City, Oklahoma

SERVICE	FCC Grade B		FCC Grade A	
	Population	Area (Square km)	Population	Area (Square km)
Traditionally Predicted	1,317,062	40,019	970,735	11,765
	F(50/50/50) (Grade B)		F(50/50/50) (Grade A)	
	Population	Area (Square km)	Population	Area (Square km)
Longley-Rice Predicted	1,394,872	47,220	1,058,729	19,812
	F(99/99/99) (Grade B)		F(99/99/99) (Grade A)	
	Population	Area (Square km)	Population	Area (Square km)
Longley-Rice Predicted	793,834	5,173	265,776	457
	F(70/90/50) (Grade B)			
	Population	Area (Square km)		
Longley-Rice Predicted	1,271,794	33,866		

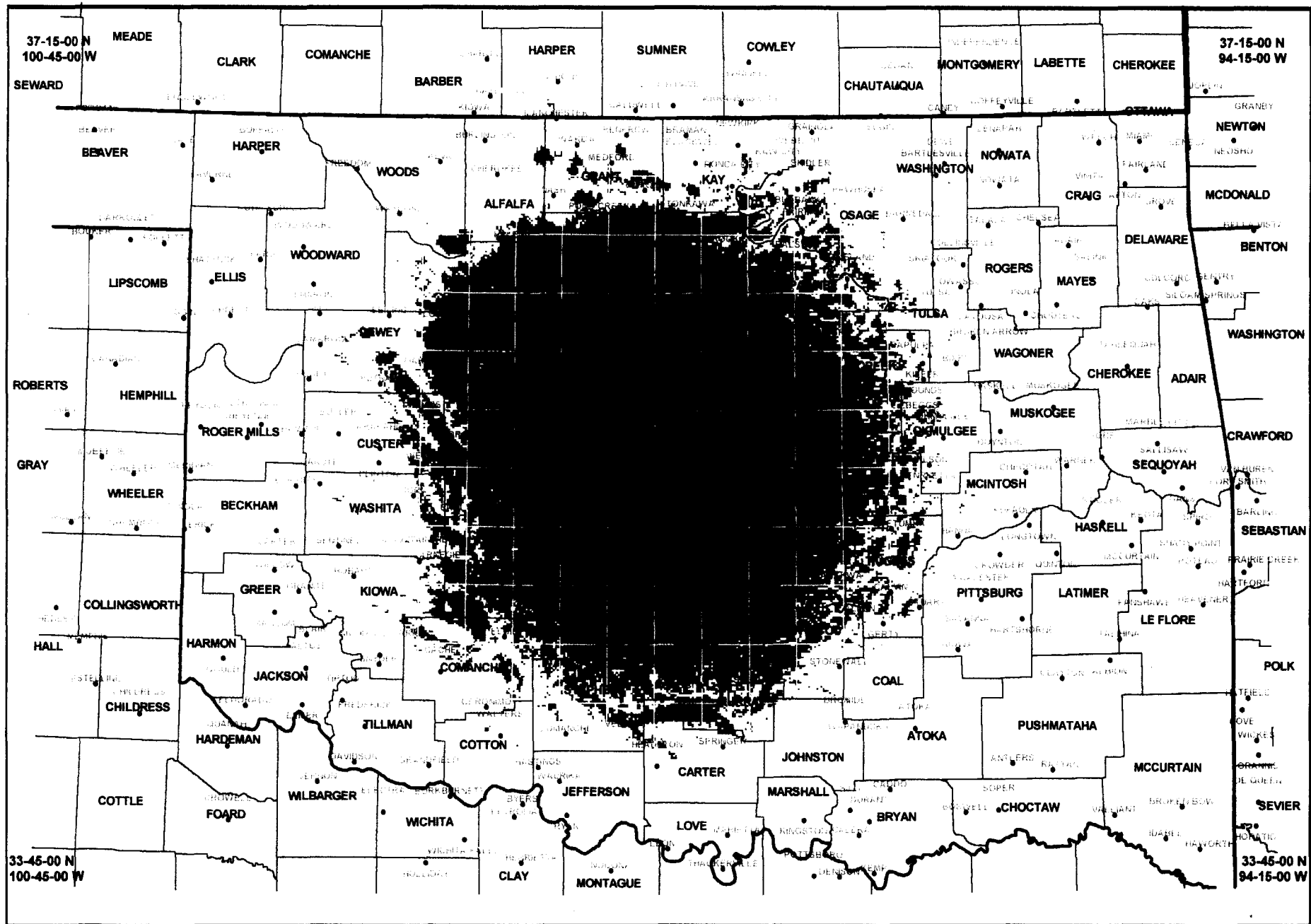
F(50/50/50) - Longley-Rice Location Variability (50%), Time Variability(50%), Confidence (50%)

F(99/99/99) - Longley-Rice Location Variability (99%), Time Variability(99%), Confidence (99%)

F(70/90/50) - Longley-Rice Location Variability (70%), Time Variability(90%), Confidence (50%)

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KOCO OKLAHOMA CITY OK NTSC Channel 5

Grade B = Light Blue Grade A = Dark Blue

Longley-Rice Analysis

L = 50%, T = 50%, C = 50%

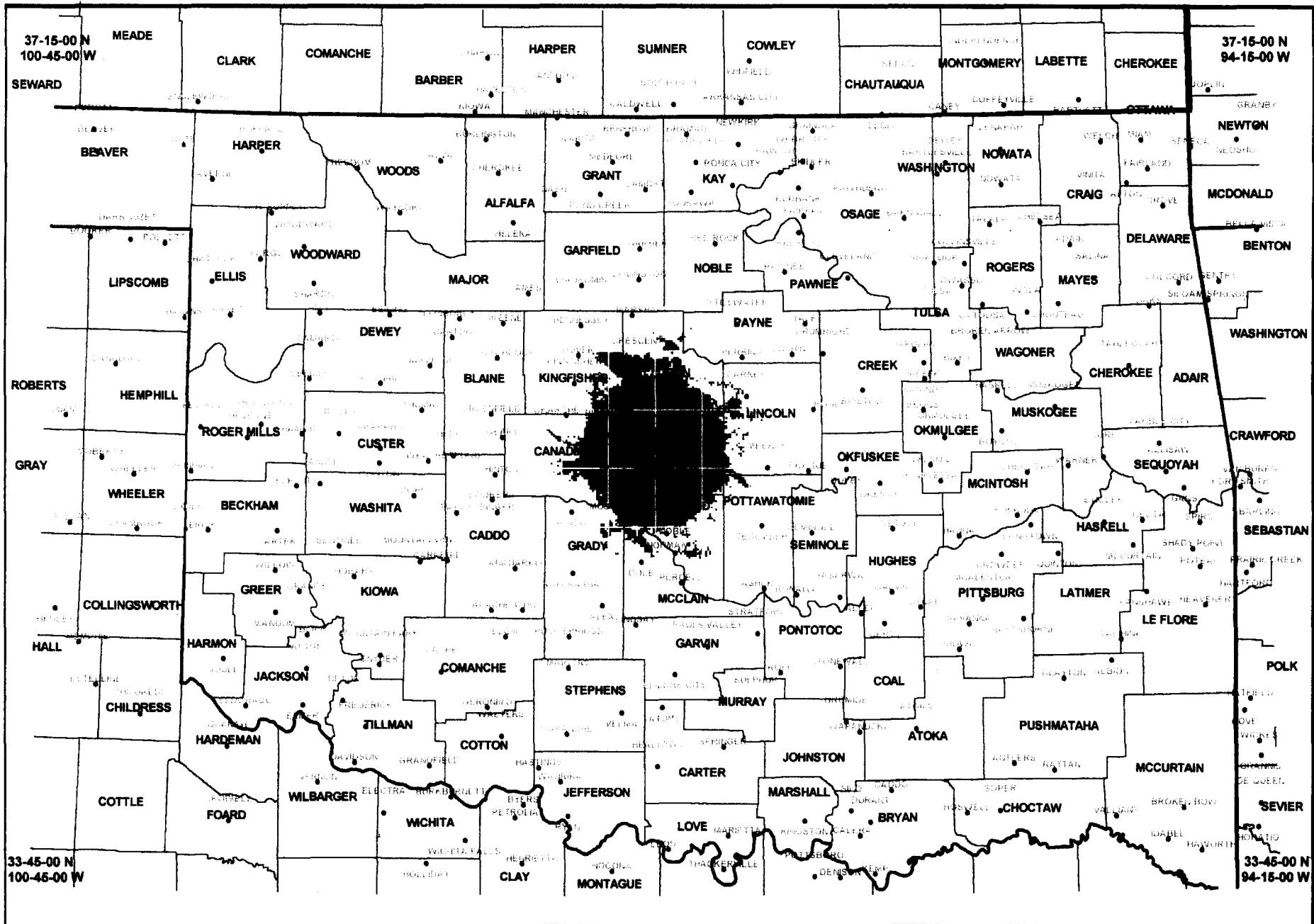
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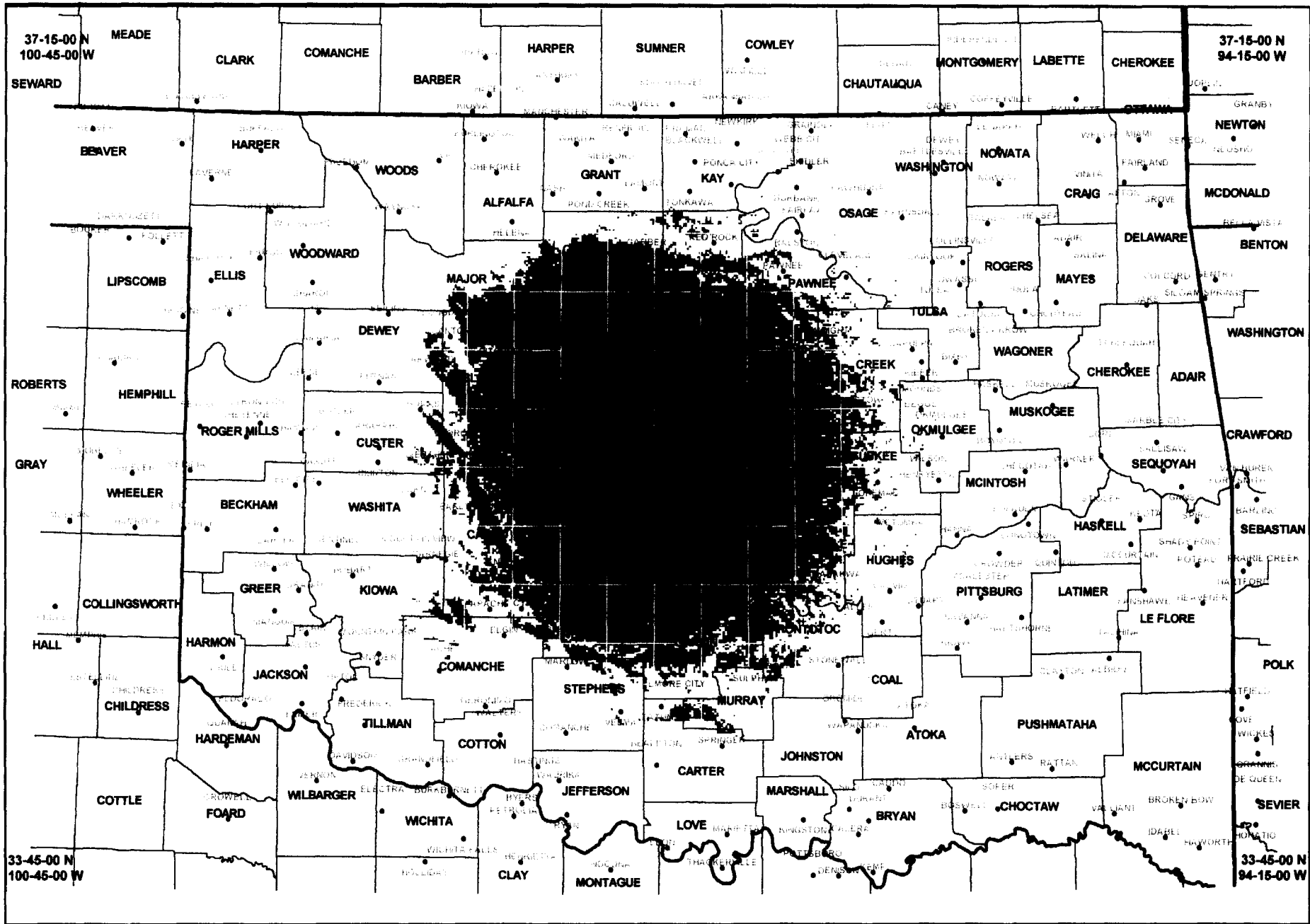
KM

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KOCO OKLAHOMA CITY OK NTSC Channel 5
Grade B = Light Blue Grade A = Dark Blue
Longley-Rice Analysis
L = 99%, T = 99%, C = 99%
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KOCO OKLAHOMA CITY OK NTSC Channel 5

Grade B = Light Blue Grade A = Dark Blue

Longley-Rice Analysis

L = 70%, T = 90%, C = 50%

Prepared for Hearst-Argyle

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0

KM

250

WAPT Channel 16 Jackson, Mississippi

SERVICE	FCC Grade B		FCC Grade A	
	Population	Area (Square km)	Population	Area (Square km)
Traditionally Predicted	604,870	22,726	502,344	13,489
	F(50/50/50) (Grade B)		F(50/50/50) (Grade A)	
	Population	Area (Square km)	Population	Area (Square km)
Longley-Rice Predicted	720,437	33,572	604,167	23,060
	F(99/99/99) (Grade B)		F(99/99/99) (Grade A)	
	Population	Area (Square km)	Population	Area (Square km)
Longley-Rice Predicted	369,747	5,093	168,568	586
	F(70/90/50) (Grade B)			
	Population	Area (Square km)		
Longley-Rice Predicted	609,782	23,539		

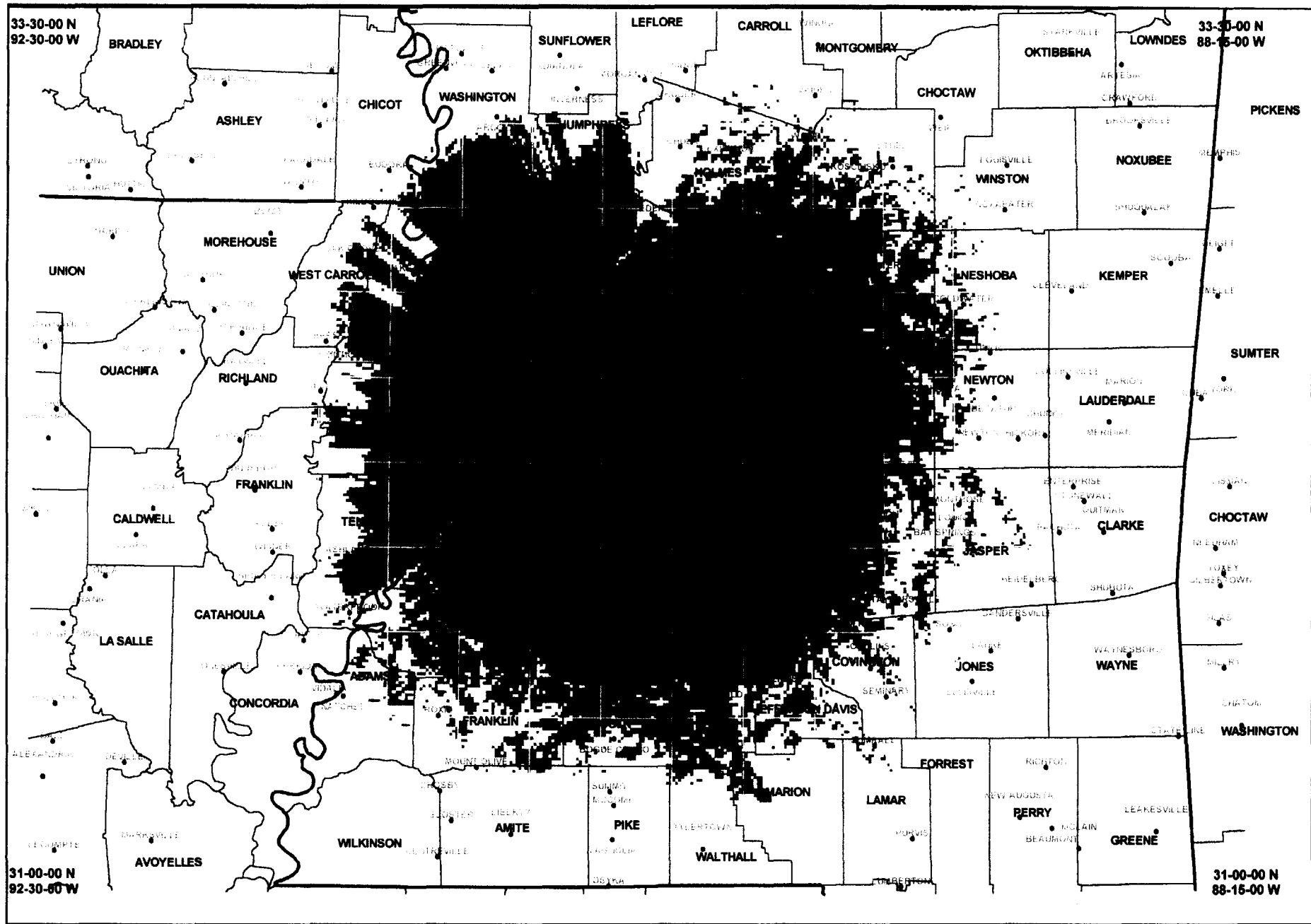
F(50/50/50) - Longley-Rice Location Variability (50%), Time Variability(50%), Confidence (50%)

F(99/99/99) - Longley-Rice Location Variability (99%), Time Variability(99%), Confidence (99%)

F(70/90/50) - Longley-Rice Location Variability (70%), Time Variability(90%), Confidence (50%)

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WAPT JACKSON MS NTSC Channel 16

Grade B = Light Blue Grade A = Dark Blue

Longley-Rice Analysis

L = 50%, T = 50%, C = 50%

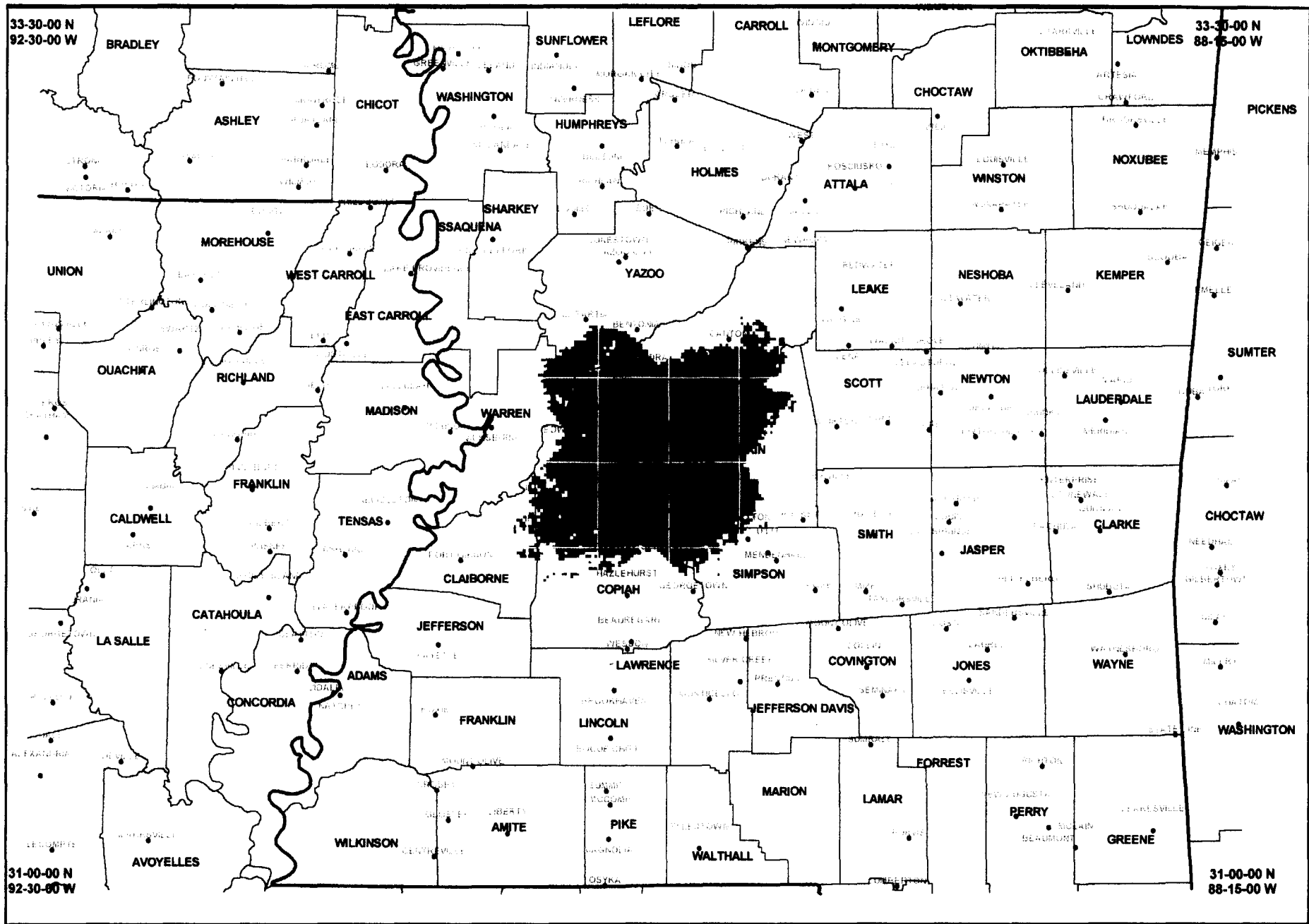
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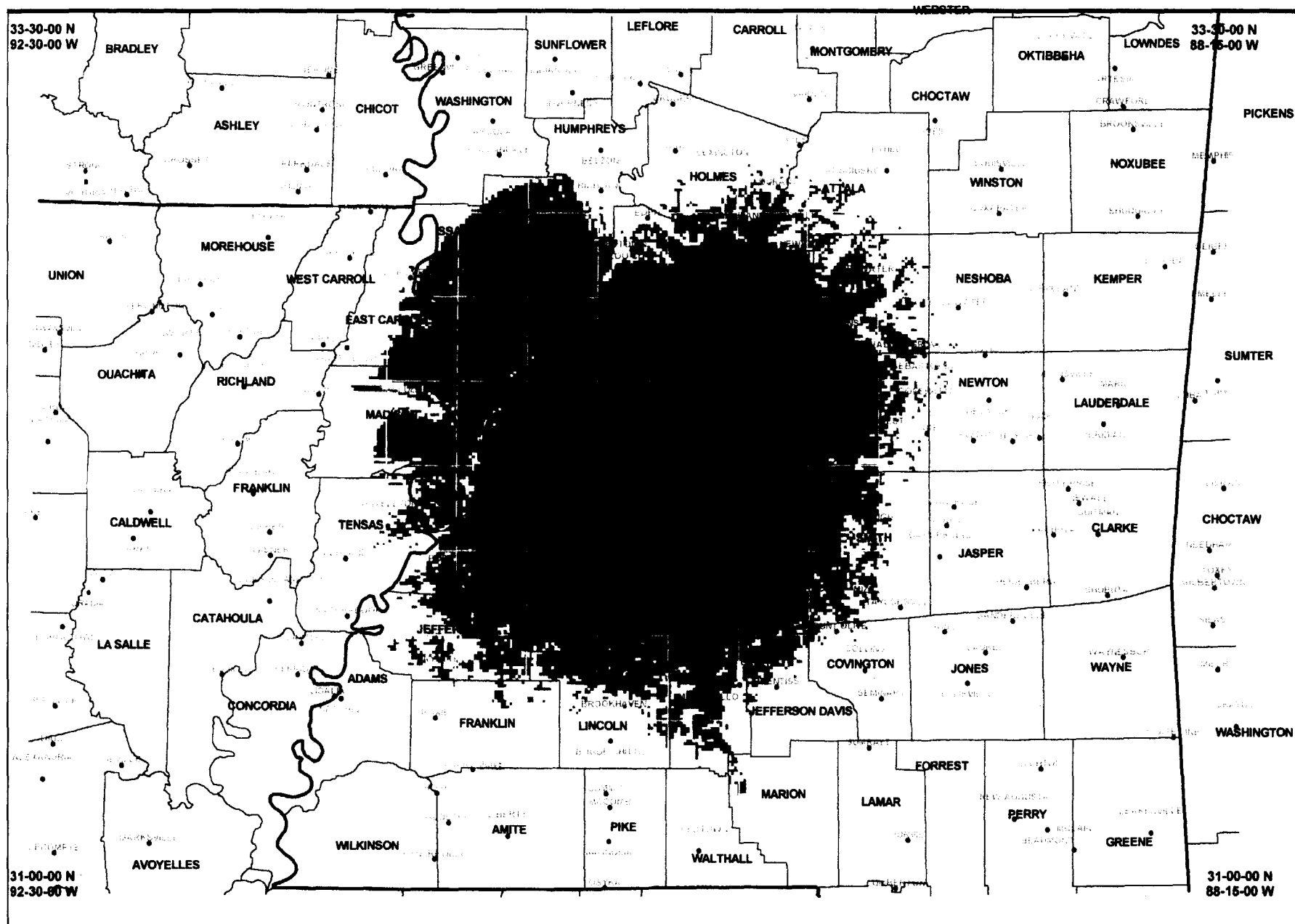


WAPT JACKSON MS NTSC Channel 16
 Grade B = Light Blue Grade A = Dark Blue
 Longley-Rice Analysis

L = 99%, T = 99%, C = 99%

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WAPT JACKSON MS NTSC Channel 16

Grade B = Light Blue Grade A = Dark Blue

Longley-Rice Analysis

L = 70%, T = 90%, C = 50%

Prepared for Hearst-Argyle

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KCCI Channel 8 Des Moines, Iowa

SERVICE	FCC Grade B		FCC Grade A	
	Population	Area (Square km)	Population	Area (Square km)
Traditionally Predicted	919,319	44,786	683,140	22,310
	F(50/50/50) (Grade B)		F(50/50/50) (Grade A)	
	Population	Area (Square km)	Population	Area (Square km)
Longley-Rice Predicted	951,386	47,212	787,762	29,227
	F(99/99/99) (Grade B)		F(99/99/99) (Grade A)	
	Population	Area (Square km)	Population	Area (Square km)
Longley-Rice Predicted	485,341	6,754	24,009	396
	F(70/90/50) (Grade B)			
	Population	Area (Square km)		
Longley-Rice Predicted	840,416	34,720		

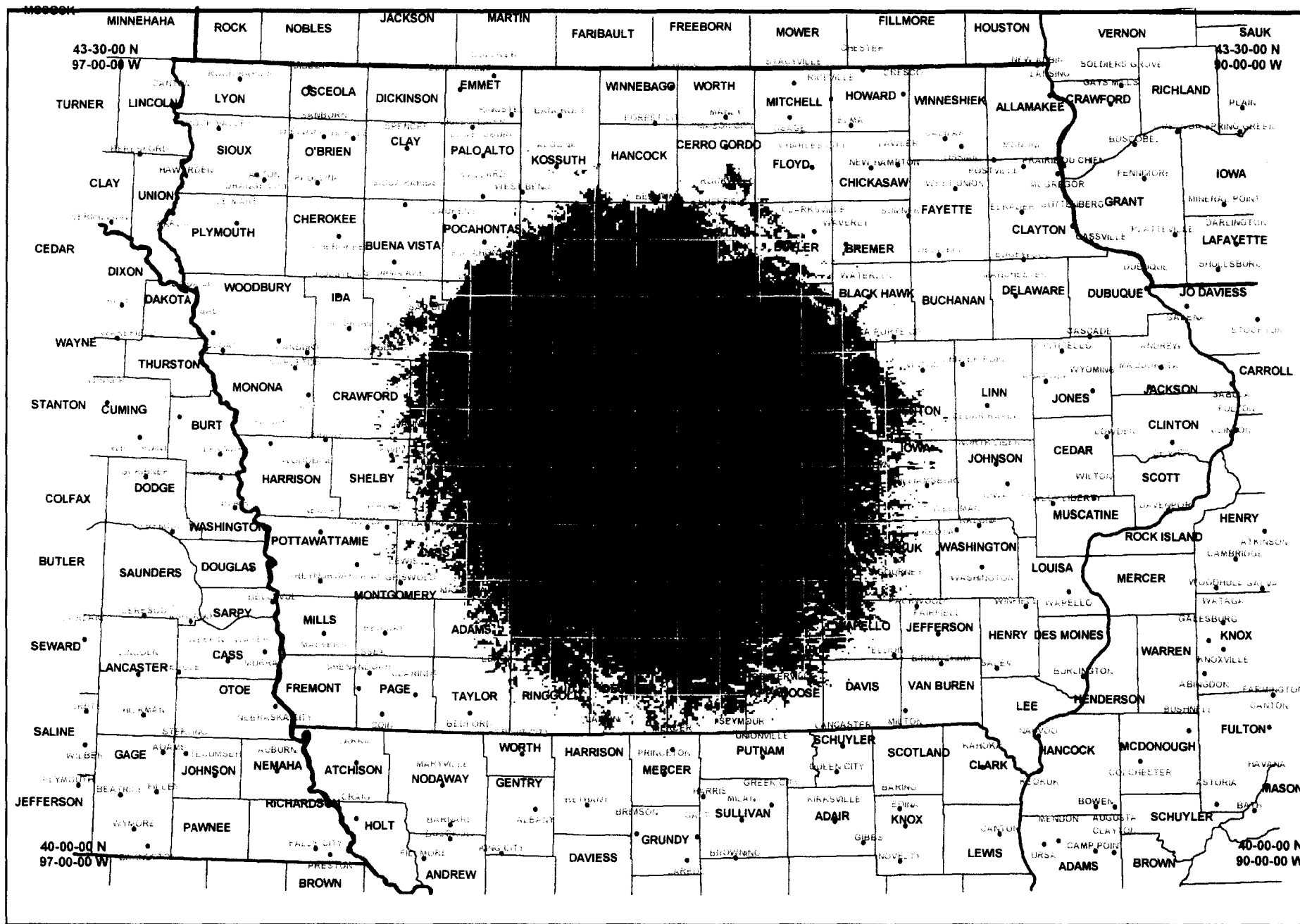
F(50/50/50) - Longley-Rice Location Variability (50%), Time Variability(50%), Confidence (50%)

F(99/99/99) - Longley-Rice Location Variability (99%), Time Variability(99%), Confidence (99%)

F(70/90/50) - Longley-Rice Location Variability (70%), Time Variability(90%), Confidence (50%)

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KCCI DES MOINES IA NTSC Channel 8

Grade B = Light Blue Grade A = Dark Blue

Longley-Rice Analysis

L = 50%, T = 50%, C = 50%

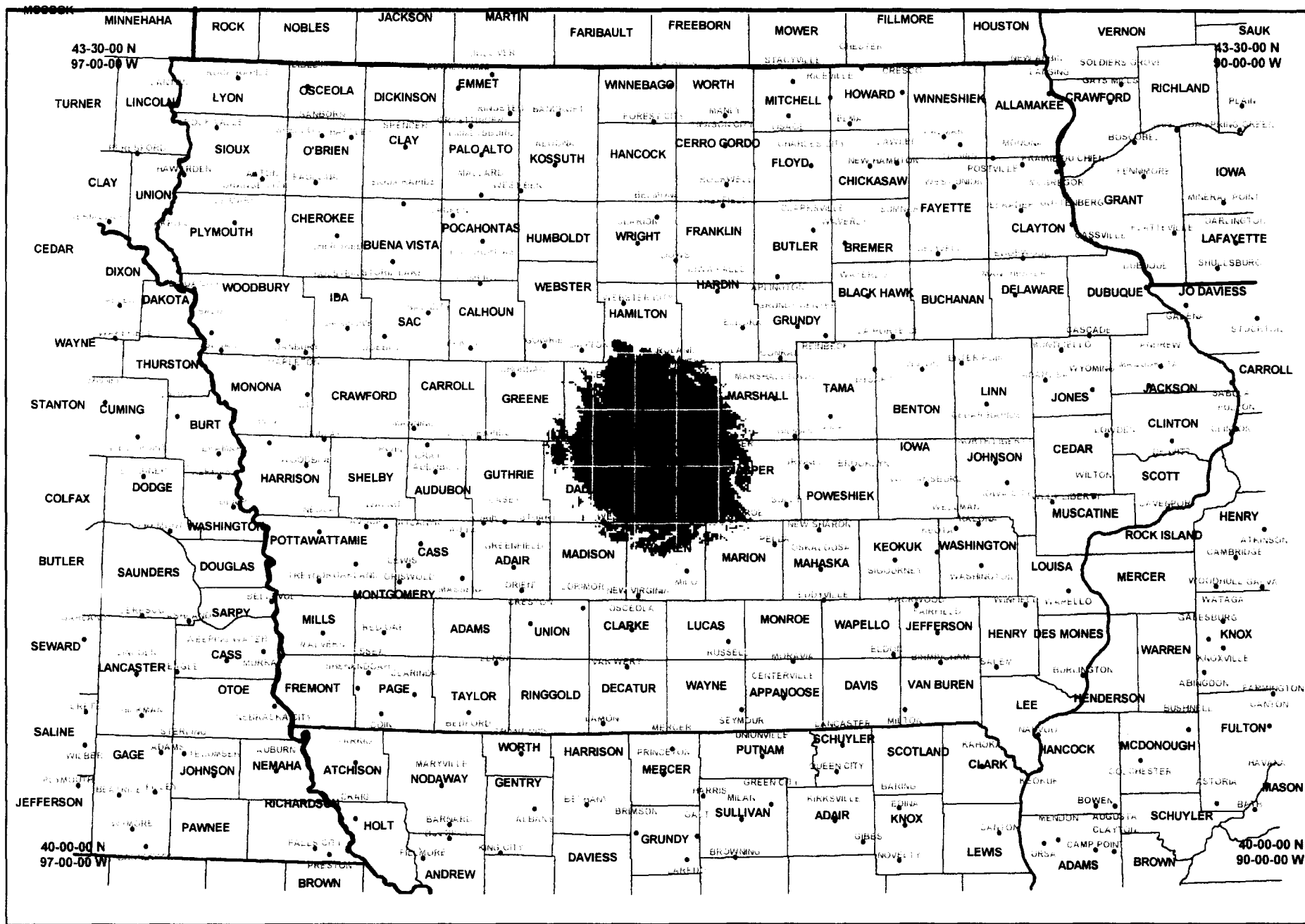
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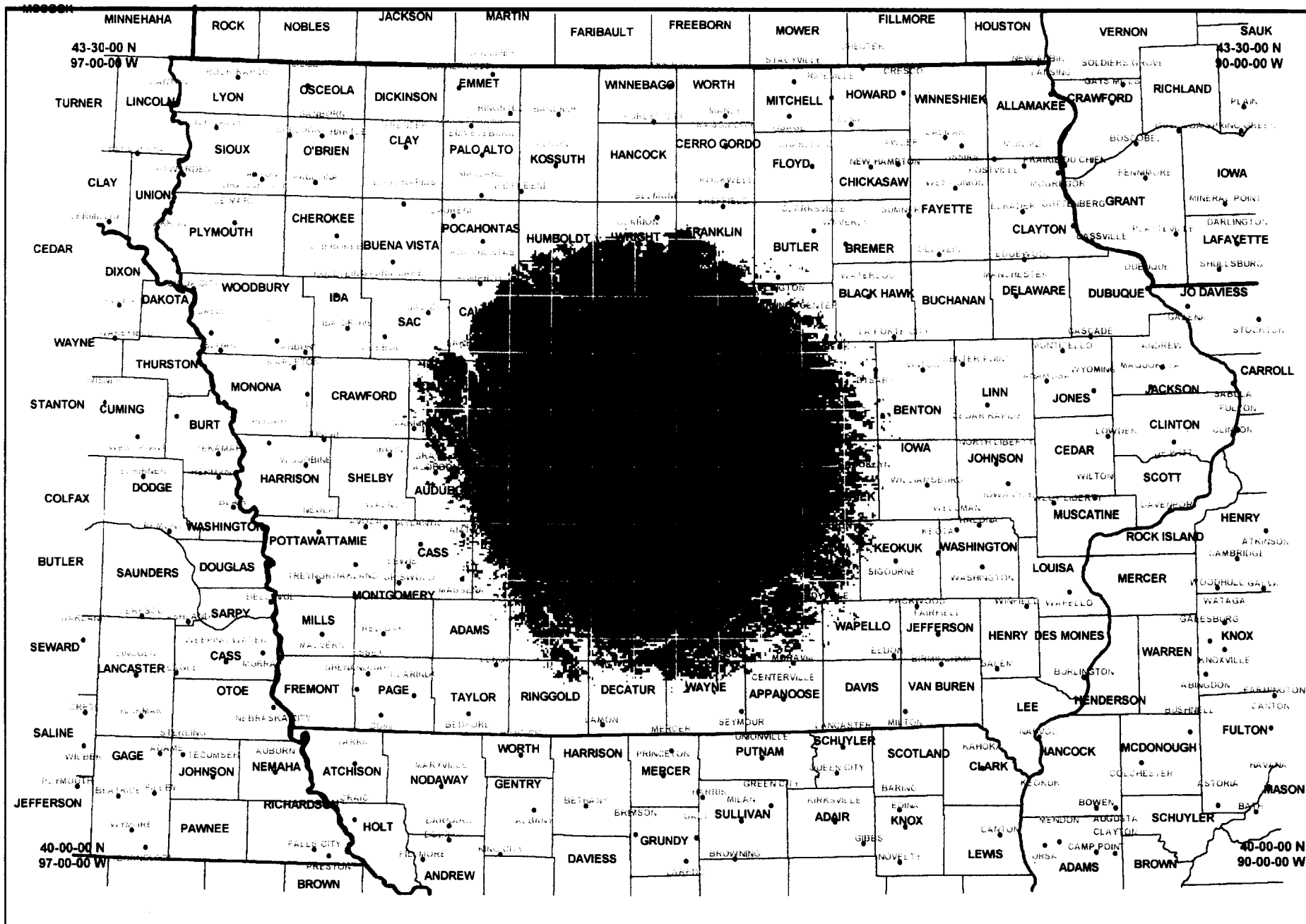


KCCI DES MOINES IA NTSC Channel 8
 Grade B = Light Blue Grade A = Dark Blue
 Longley-Rice Analysis

L = 99%, T = 99%, C = 99%

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KCCI DES MOINES IA NTSC Channel 8

Grade B = Light Blue Grade A = Dark Blue

Longley-Rice Analysis

L = 70%, T = 90%, C = 50%

Prepared for Hearst-Argyle

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WXII Channel 12 Winston-Salem, North Carolina

SERVICE	FCC Grade B		FCC Grade A	
	Population	Area (Square km)	Population	Area (Square km)
Traditionally Predicted	2,671,680	45,256	1,451,324	22,553
	F(50/50/50) (Grade B)		F(50/50/50) (Grade A)	
	Population	Area (Square km)	Population	Area (Square km)
Longley-Rice Predicted	2,567,799	43,656	1,640,552	23,892
	F(99/99/99) (Grade B)		F(99/99/99) (Grade A)	
	Population	Area (Square km)	Population	Area (Square km)
Longley-Rice Predicted	427,476	5,652	7,095	201
	F(70/90/50) (Grade B)			
	Population	Area (Square km)		
Longley-Rice Predicted	1,942,175	30,855		

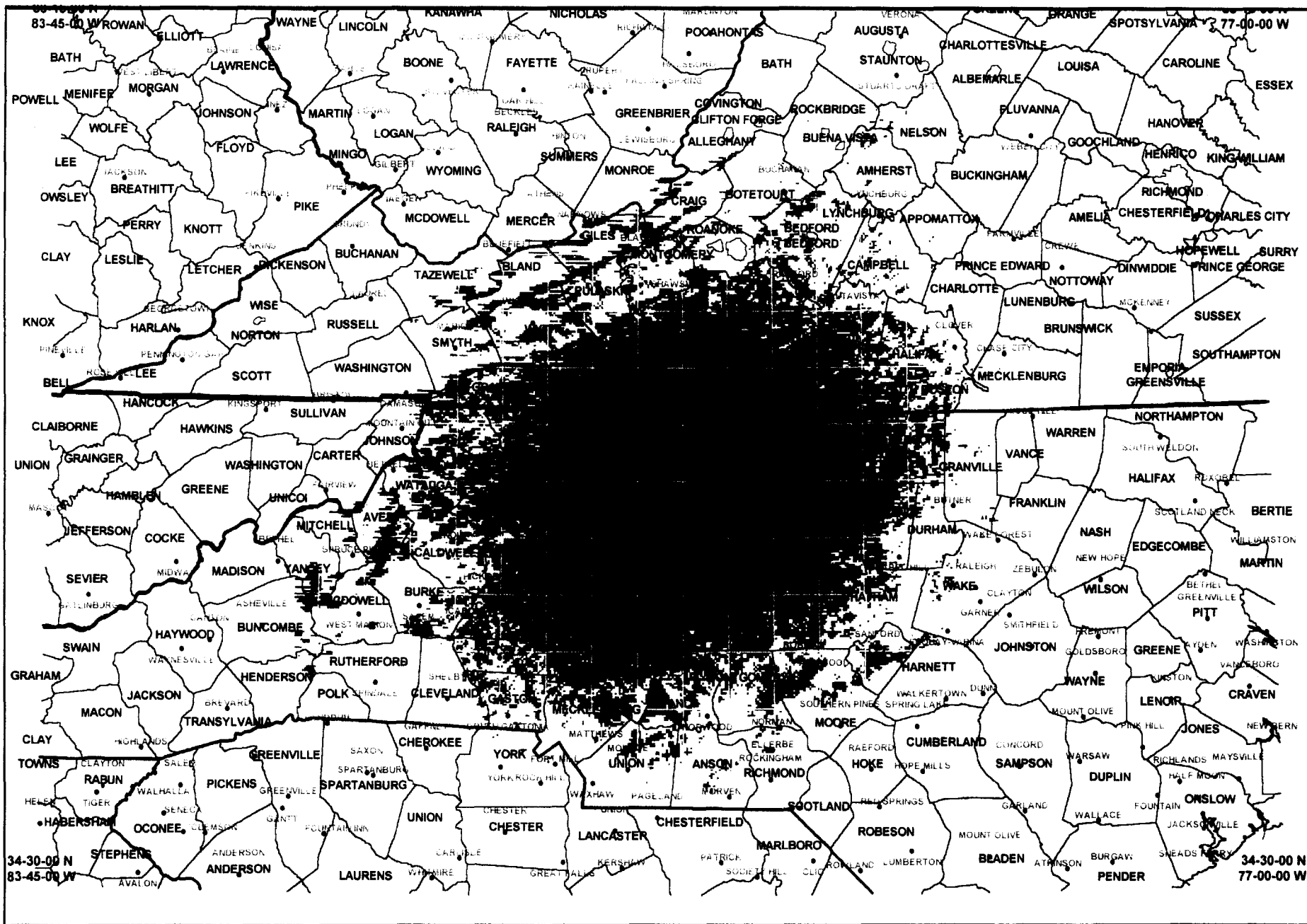
F(50/50/50) - Longley-Rice Location Variability (50%), Time Variability(50%), Confidence (50%)

F(99/99/99) - Longley-Rice Location Variability (99%), Time Variability(99%), Confidence (99%)

F(70/90/50) - Longley-Rice Location Variability (70%), Time Variability(90%), Confidence (50%)

Prepared for: Hearst-Argyle December 3, 1998

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WXII WINSTON-SALEM NC NTSC Channel 12

Grade B = Light Blue Grade A = Dark Blue

Longley-Rice Analysis

L = 50%, T = 50%, C = 50%

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WXII WINSTON-SALEM NC NTSC Channel 12

Grade B = Light Blue Grade A = Dark Blue

Longley-Rice Analysis

L = 99%, T = 99%, C = 99%

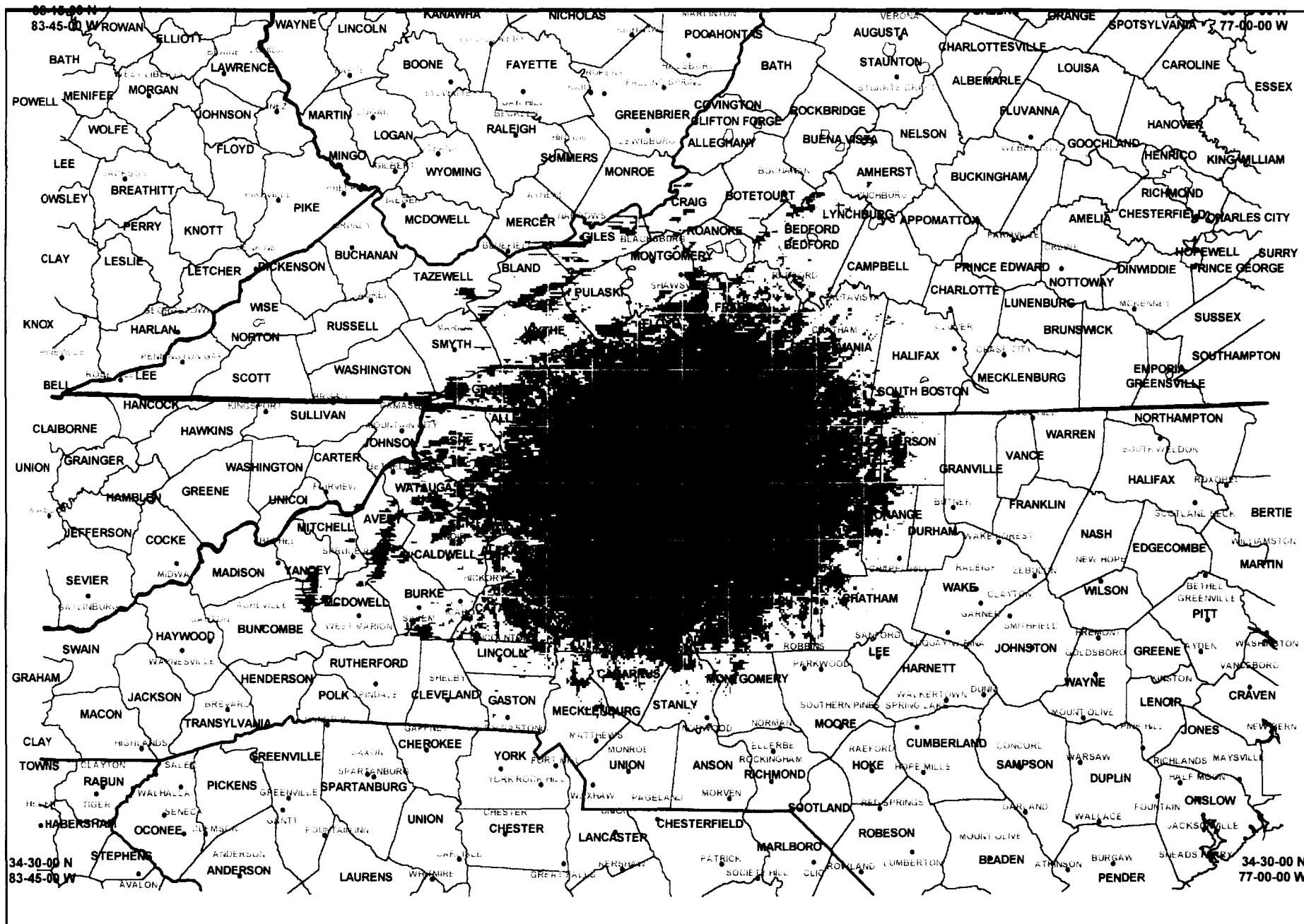
Prepared for Hearst-Argyle

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KM

250



WXII WINSTON-SALEM NC NTSC Channel 12
Grade B = Light Blue Grade A = Dark Blue
Longley-Rice Analysis
L = 70%, T = 90%, C = 50%
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KM

250

KETV Channel 7 Omaha, Nebraska

SERVICE	FCC Grade B		FCC Grade A	
	Population	Area (Square km)	Population	Area (Square km)
Traditionally Predicted	1,103,173	34,765	759,205	16,345
	F(50/50/50) (Grade B)		F(50/50/50) (Grade A)	
	Population	Area (Square km)	Population	Area (Square km)
Longley-Rice Predicted	1,130,296	38,698	949,252	21,646
	F(99/99/99) (Grade B)		F(99/99/99) (Grade A)	
	Population	Area (Square km)	Population	Area (Square km)
Longley-Rice Predicted	619,790	4,185	96,505	115
	F(70/90/50) (Grade B)			
	Population	Area (Square km)		
Longley-Rice Predicted	1,024,456	27,462		

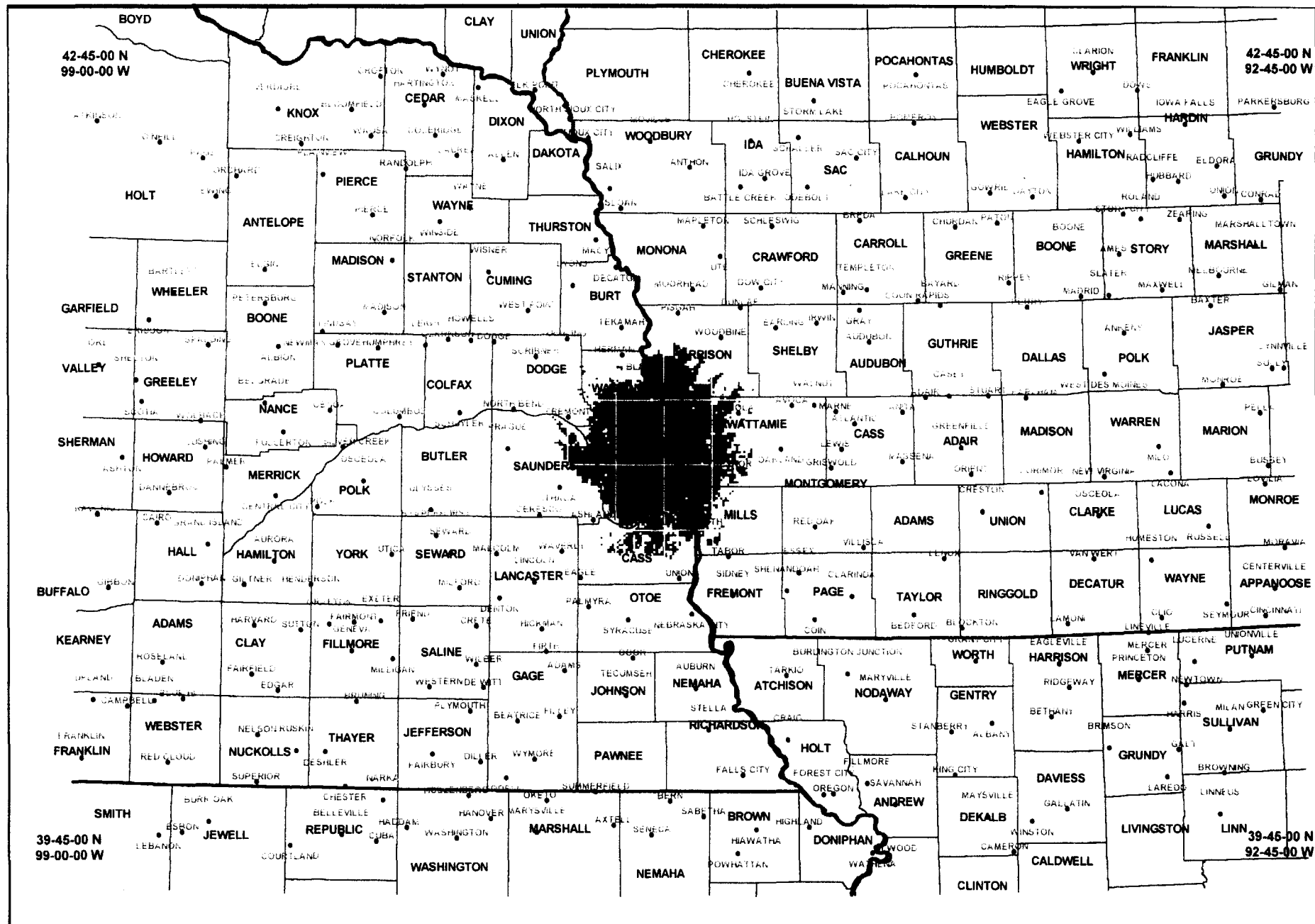
F(50/50/50) - Longley-Rice Location Variability (50%), Time Variability(50%), Confidence (50%)

F(99/99/99) - Longley-Rice Location Variability (99%), Time Variability(99%), Confidence (99%)

F(70/90/50) - Longley-Rice Location Variability (70%), Time Variability(90%), Confidence (50%)

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KETV OMAHA NE NTSC Channel 7

Grade B = Light Blue Grade A = Dark Blue

Longley-Rice Analysis

L = 99%, T = 99%, C = 99%

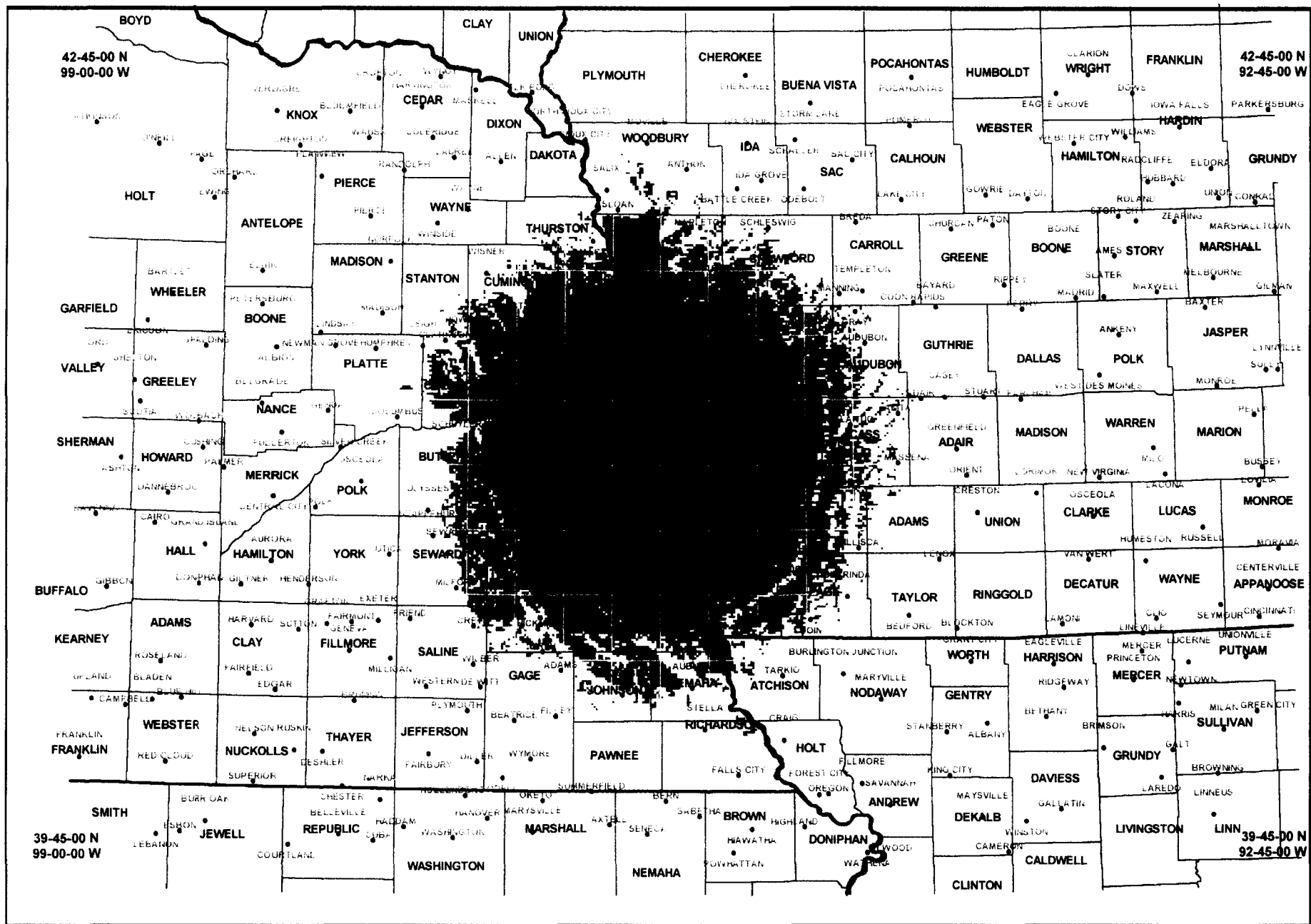
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KM

100



KETV OMAHA NE NTSC Channel 7

Grade B = Light Blue Grade A = Dark Blue

Longley-Rice Analysis

L = 70%, T = 90%, C = 50%

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KOAT Channel 7 Albuquerque, New Mexico

SERVICE	FCC Grade B		FCC Grade A	
	Population	Area (Square km)	Population	Area (Square km)
Traditionally Predicted	776,746	44,966	703,780	21,117
	F(50/50/50) (Grade B)		F(50/50/50) (Grade A)	
	Population	Area (Square km)	Population	Area (Square km)
Longley-Rice Predicted	764,256	49,040	716,413	34,890
	F(99/99/99) (Grade B)		F(99/99/99) (Grade A)	
	Population	Area (Square km)	Population	Area (Square km)
Longley-Rice Predicted	213,323	994	166	54
	F(70/90/50) (Grade B)			
	Population	Area (Square km)		
Longley-Rice Predicted	741,303	38,627		

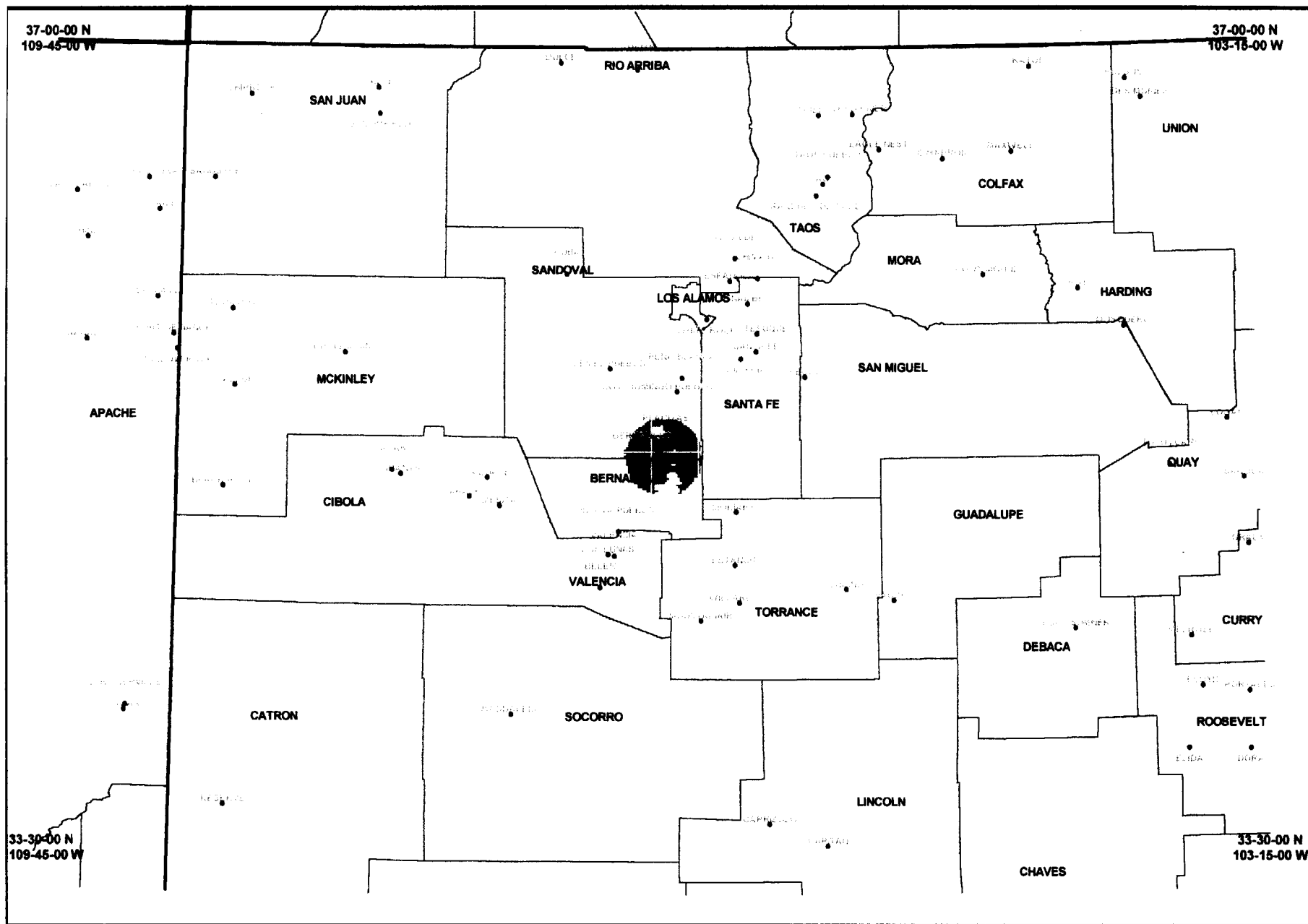
F(50/50/50) - Longley-Rice Location Variability (50%), Time Variability(50%), Confidence (50%)

F(99/99/99) - Longley-Rice Location Variability (99%), Time Variability(99%), Confidence (99%)

F(70/90/50) - Longley-Rice Location Variability (70%), Time Variability(90%), Confidence (50%)

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KOAT ALBUQUERQUE NM NTSC Channel 7

Grade B = Light Blue Grade A = Dark Blue

Longley-Rice Analysis

L = 99%, T = 99%, C = 99%

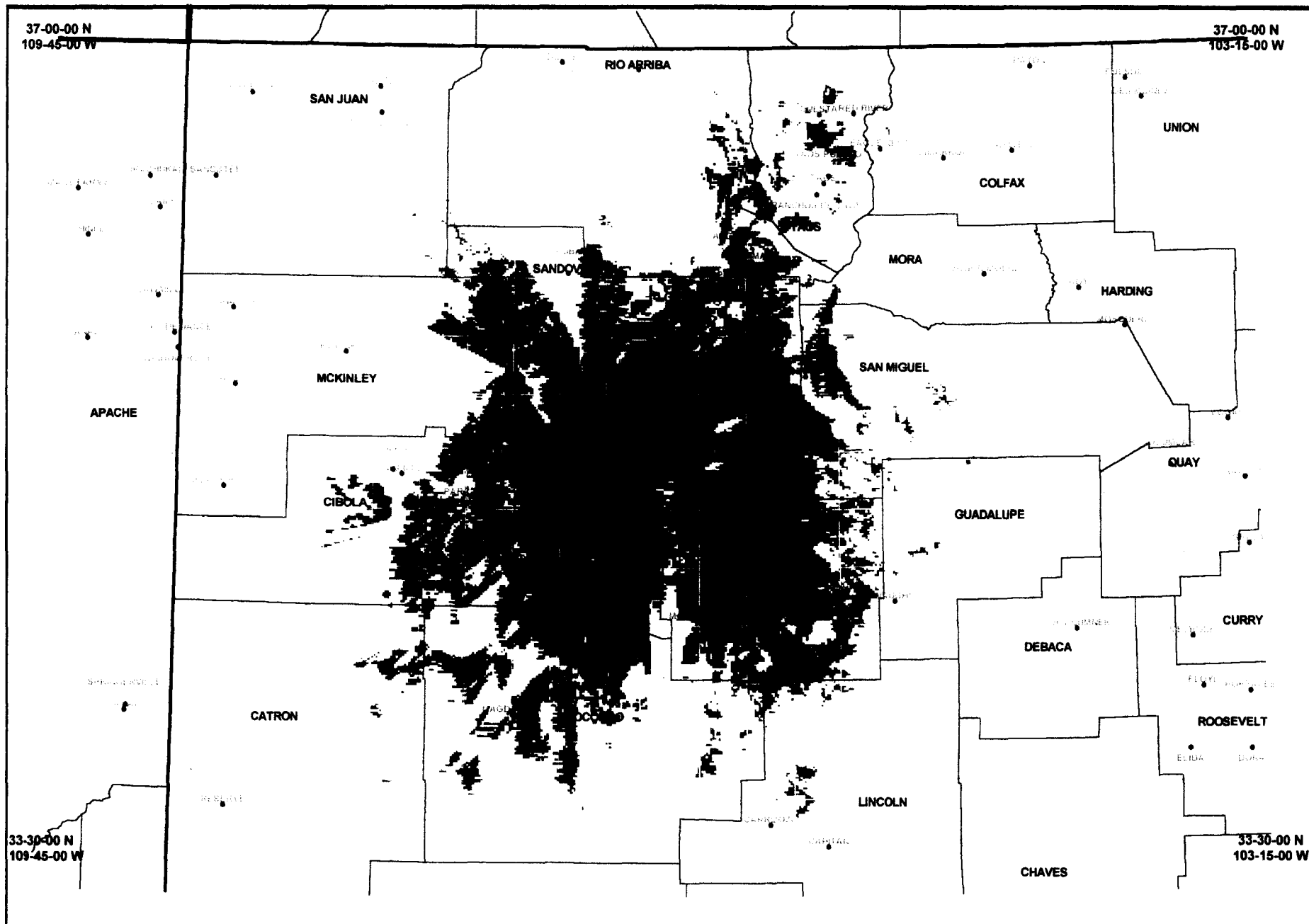
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KOAT ALBUQUERQUE NM NTSC Channel 7
Grade B = Light Blue Grade A = Dark Blue
Longley-Rice Analysis
L = 70%, T = 90%, C = 50%
Prepared for Hearst-Argyle
Prepared by TechWare, Inc. Chantilly, VA 703-222-5842



KSBW Channel 8 Salinas, California

SERVICE	FCC Grade B		FCC Grade A	
	Population	Area (Square km)	Population	Area (Square km)
Traditionally Predicted	6,438,505	43,962	3,091,188	21,395
	F(50/50/50) (Grade B)		F(50/50/50) (Grade A)	
	Population	Area (Square km)	Population	Area (Square km)
Longley-Rice Predicted	5,239,116	51,383	4,379,494	26,869
	F(99/99/99) (Grade B)		F(99/99/99) (Grade A)	
	Population	Area (Square km)	Population	Area (Square km)
Longley-Rice Predicted	626,817	1,933	0	4
	F(70/90/50) (Grade B)			
	Population	Area (Square km)		
Longley-Rice Predicted	4,745,215	37,434		

F(50/50/50) - Longley-Rice Location Variability (50%), Time Variability(50%), Confidence (50%)

F(99/99/99) - Longley-Rice Location Variability (99%), Time Variability(99%), Confidence (99%)

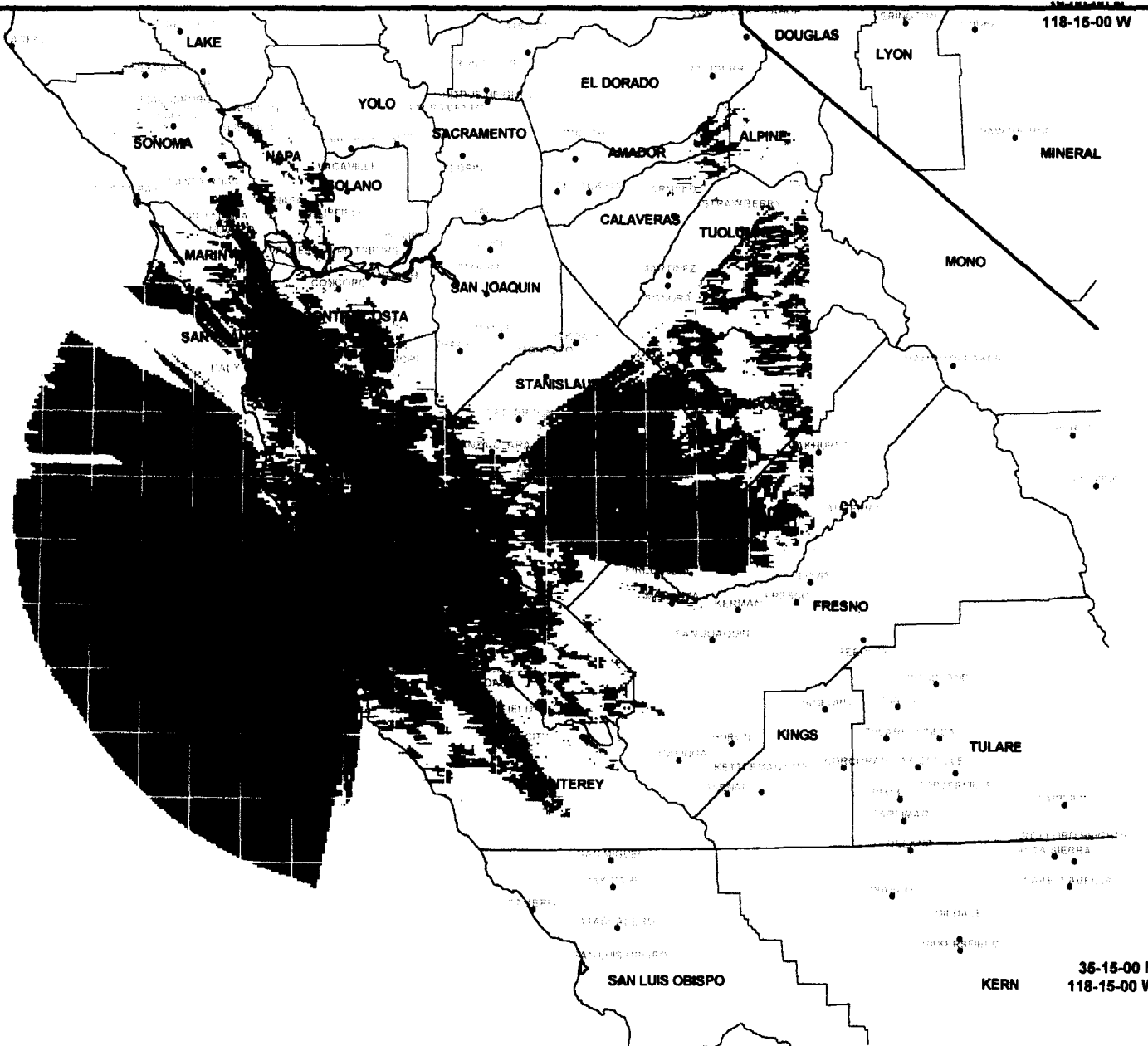
F(70/90/50) - Longley-Rice Location Variability (70%), Time Variability(90%), Confidence (50%)

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36-00-00 N
125-00-00 W

36-15-00 N
118-15-00 W



36-15-00 N
125-00-00 W

36-15-00 N
118-15-00 W

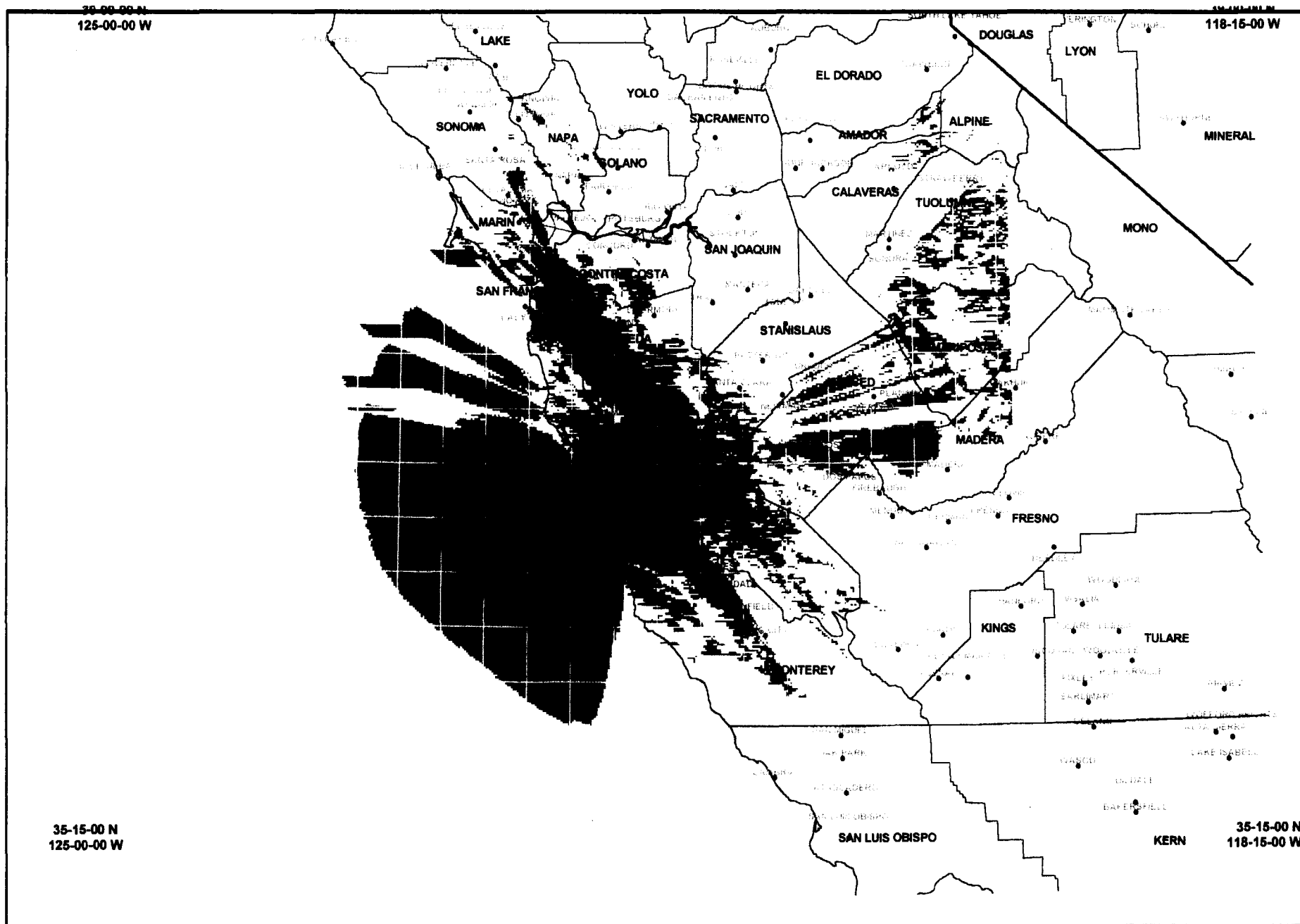
KSBW SALINAS CA NTSC Channel 8
Grade B = Light Blue Grade A = Dark Blue

Longley-Rice Analysis
L = 50%, T = 50%, C = 50%

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KSBW SALINAS CA NTSC Channel 8
 Grade B = Light Blue Grade A = Dark Blue

Longley-Rice Analysis
 L = 70%, T = 90%, C = 50%

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KCRA Channel 3 Sacramento, California

SERVICE	FCC Grade B		FCC Grade A	
	Population	Area (Square km)	Population	Area (Square km)
Traditionally Predicted	8,625,838	51,196	2,908,942	16,465
	F(50/50/50) (Grade B)		F(50/50/50) (Grade A)	
	Population	Area (Square km)	Population	Area (Square km)
Longley-Rice Predicted	6,888,837	57,170	3,049,698	29,695
	F(99/99/99) (Grade B)		F(99/99/99) (Grade A)	
	Population	Area (Square km)	Population	Area (Square km)
Longley-Rice Predicted	2,132,182	13,534	628,653	3,306
	F(70/90/50) (Grade B)			
	Population	Area (Square km)		
Longley-Rice Predicted	5,492,247	46,729		

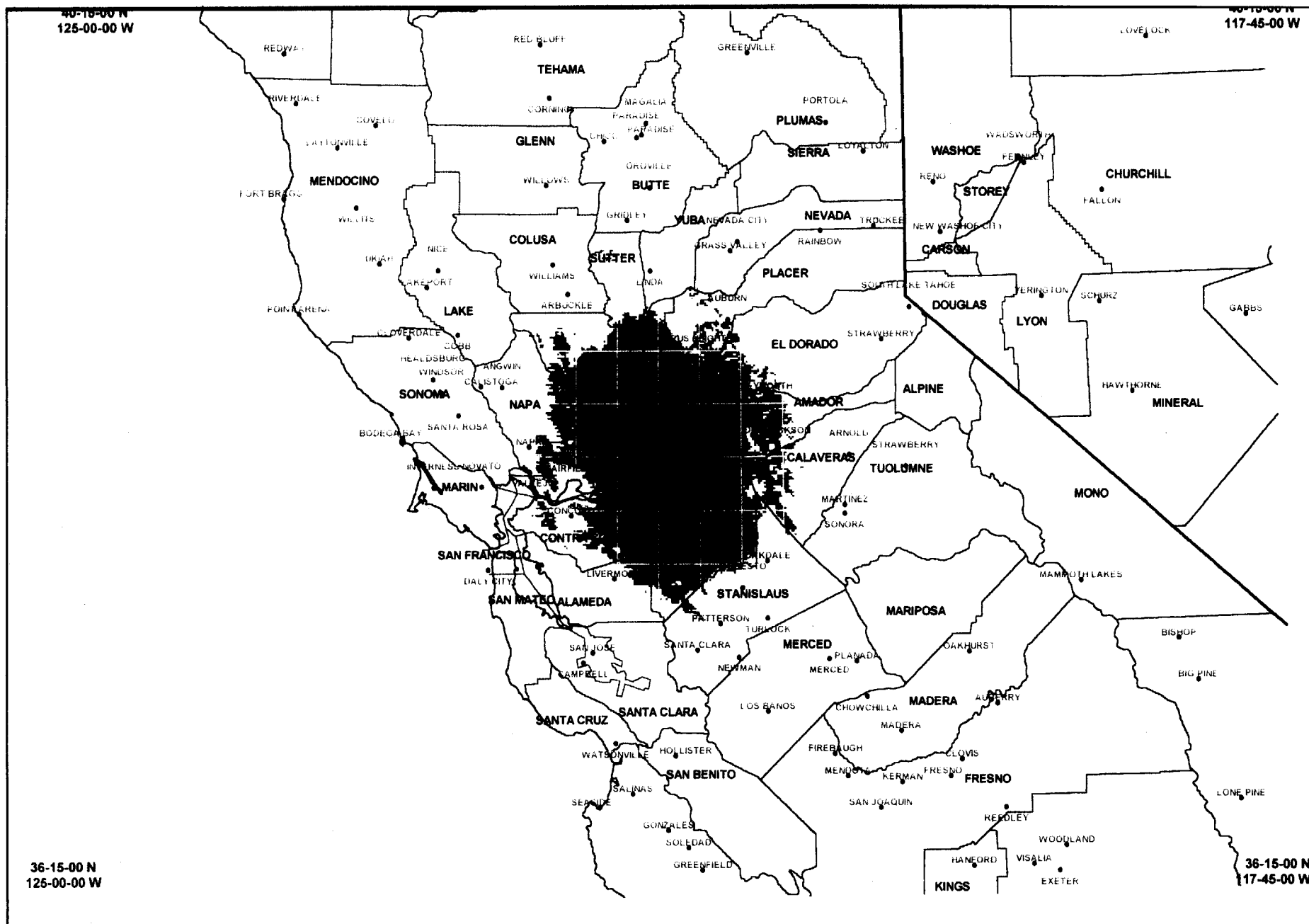
F(50/50/50) - Longley-Rice Location Variability (50%), Time Variability(50%), Confidence (50%)

F(99/99/99) - Longley-Rice Location Variability (99%), Time Variability(99%), Confidence (99%)

F(70/90/50) - Longley-Rice Location Variability (70%), Time Variability(90%), Confidence (50%)

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KCRA SACRAMENTO CA NTSC Channel 3

Grade B = Light Blue Grade A = Dark Blue

Longley-Rice Analysis

L = 99%, T = 99%, C = 99%

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